

mature in 2014 and (ii) any outstanding balances under the Senior Unsecured Interim Loan Agreement to be dated as of the closing date (or any notes issued to refinance such facility) that mature in 2015, in each case, without the need for any asset sales other than those incorporated into the Tribune Downside Forecast.

The book value of the [PHONES Notes] as reported in the Company's Form 10-Q for the quarter ended September 30, 2007 is a reasonable estimate of the Company's liability associated with the PHONES as of [December 20, 2007].

The following statement attests to VRC's reliance on Tribune's representations:²²⁸⁰

In rendering the Opinion, VRC assumed and relied upon, without independent verification, the accuracy and completeness of all information, data and other materials (including, without limitation, the Base Forecast Model and the Downside Forecast Model) furnished or otherwise made available by the Company to VRC, discussed with or reviewed by VRC with the Company, or publicly available, and VRC did not assume any responsibility for independently verifying such information, data or other materials. In addition, VRC assumed and relied upon, without independent verification, that the Base Forecast Model and the Downside Forecast Model have been reasonably and prudently prepared and therefore reflect the best currently available estimates and judgments of management as to the expected future financial performance of the Company. In connection with its review of the Based Forecast Model and Downside Forecast Model, VRC advised the Company, after discussion with management with respect thereto, that nothing has come to VRC's attention to lead VRC to believe that it was unreasonable for VRC to utilize and rely upon such financial forecasts, projections, information and data.

f. The Examiner's Assessment of VRC's Step Two Solvency Opinion.

The Examiner tested the reasonableness of VRC's Step Two solvency opinion by evaluating both the specific modeling and analysis conducted by VRC in arriving at its conclusions, as well as the consistency of VRC's conclusions with certain market-based indicia of Tribune's value as of the closing of the Step Two Transactions. As context for the detailed

²²⁸⁰ Ex. 728 at TRB0294012 (VRC Step Two Solvency Opinion, dated December 20, 2007).

discussion that follows, the Examiner notes that, in connection with its December 20, 2007 analysis, VRC established a range of post-Step Two Financing Closing Date equity values for Tribune of between \$931.6 million and \$2.623 billion.

Because this range of equity values is adjusted for the pro-forma Step Two Debt, and after taking into account the value of S-Corporation/ESOP tax savings (as VRC quantified such benefits), VRC's determined equity values can be restated under an assumption that the Step Two Financing never occurred, such that VRC's range of equity values can be expressed as a per share value on the basis of shares outstanding immediately prior to the closing:

EQUITY VALUE PER SHARE WITHOUT STEP 2 CLOSING (1) (\$mm)			
	Low	Mid	High
Equity Value	\$ 931.6	\$ 1,777.2	\$ 2,622.8
Less: ESOP Tax Savings	(\$ 815.8)	(\$ 876.0)	(\$ 936.1)
Plus: Incremental Step 2 Debt	\$ 3,705.0	\$ 3,705.0	\$ 3,705.0
Total Residual Equity Value Without Closing	\$ 3,820.8	\$ 4,606.2	\$ 5,391.7
Number of Shares	117.1	117.1	117.1
Value per Share	\$ 32.6	\$ 39.3	\$ 46.0
(1) Ex. 1045 (VRC Solvency Analysis, dated December 20, 2007).			

This analysis reveals that VRC, as of December 20, 2007, concluded that just prior to the closing of the Step Two Transactions, Tribune Common Stock would have ranged in value between \$32.60 and \$46.00 per share. The Examiner finds this implied value per share to be *per se* unreasonable and inconsistent with the observed trading value of Tribune Common Stock before the closing of the Step Two Transactions, as well as investor behavior between the closing of the Step One Transactions and the closing of the Step Two Transactions. **VRC, in effect,** concluded that Tribune Common Stock would be worth more at the mid-point, \$39.30 per share,

than the \$34 per share Tender Offer price, despite the secular declines in the value of identified cohort companies throughout 2007.

Regarding VRC's analytical work, the Examiner considered, among other things, the reasonableness of the financial projections on which certain of VRC's valuation and capital adequacy conclusions were based, the integrity of certain assumptions identified as "key" to VRC's rendering of its Step Two solvency opinion, and the validity of certain representations relied on by VRC compared to the known and reasonably ascertainable facts. With respect to market-based indicia of Tribune value, the Examiner considered, among other things, the trading value of Tribune Common Stock and Tribune's publicly traded debt during the period between the closing of the Step One Transactions and the closing of the Step Two Transactions, the pricing of credit default swaps, and the secondary market trading values of Tribune's debt. In addition to containing several of the same mistakes identified by the Examiner as in VRC's Step One analysis,²²⁸¹ VRC's Step Two analysis, although remedying some of the previous mistakes, contained several additional significant errors and/or omissions, discussed below.

(1) **VRC's Reliance on Management's October 2007 Projections was Unreasonable.**

Significantly, VRC's Step Two analysis relied on revised October 2007 projections that did not, in the Examiner's view, reasonably represent Tribune's likely future financial performance following the Merger.

The reasonableness of the October 2007 management projections relied on by VRC in conducting its Step Two analysis is highly germane to the reasonableness of VRC's solvency and capital adequacy conclusions at Step Two. In particular, VRC's reliance on the EBITDA estimates derived from those projections bears directly on VRC's valuation and capital adequacy

²²⁸¹ See Report at § III.E.3.c.

conclusions in three important ways. First, forecasted cash flows based on the EBITDA estimates contained in the October 2007 projection model are discounted to present value and thereby comprise a significant component of VRC's DCF valuation conclusion. Second, the EBITDA estimates also affect VRC's multiples-based valuation conclusions because the near term forecasts of Tribune EBITDA are the base values to which VRC applied certain cohort-derived multiples in its comparable company valuation methodology.²²⁸² Third, because EBITDA estimates bear on cash flow expected to be available to fund operations and make interest and principal payments, these estimates in turn drive conclusions regarding Tribune's capital adequacy.²²⁸³

In light of the importance of Tribune management's October 2007 projections to VRC's conclusions, the Examiner evaluated the bases articulated by management for certain key assumptions underlying the projections and, among other things, compared the forecasted performance both with Tribune's prior actual financial results (including performance trends observable from that historical review) and analyst expectations during the period proximate to the date that VRC issued its Step Two solvency opinion.²²⁸⁴ The Examiner also evaluated

²²⁸² For example, VRC utilized LTM, CFY, and NFY EBITDA multiples as part of its comparable company valuation study. As such, NFY expectations of Tribune EBITDA informed VRC's valuation conclusions using the comparable company valuation methodology.

²²⁸³ EBITDA forecasts have the potential to affect Tribune's ability to satisfy debt covenant compliance as well, in that EBITDA affects both "total guaranteed leverage ratio" and "interest coverage ratio" determinations under the terms of the financing agreements applicable to Tribune.

²²⁸⁴ Although VRC's December 20, 2007 solvency opinion stated that VRC assumed and relied on, without independent verification, the accuracy and completeness of all information provided it by Tribune, according to Mr. Rucker and Mr. Browning, VRC conducted due diligence, at least regarding specific elements of the performance forecasted by Tribune. For example, when asked about how VRC came to understand that "advertising would revert back and become stronger over time," Mr. Rucker testified:

Yes, we had extensive sessions, two all day sessions with the heads of, I think every major company, every major paper, division at the company. And we went through and discussed some of the initiatives that they were putting in place, that they thought would allow them to recapture those markets. So we had very extensive due diligence meetings with almost every major head of divisions at the company.

Examiner's Sworn Interview of Mose Rucker and Bryan Browning, June 30, 2010, at 44:2-14.

management's October 2007 projections in light of the expectations embodied in the February 2007 projections.

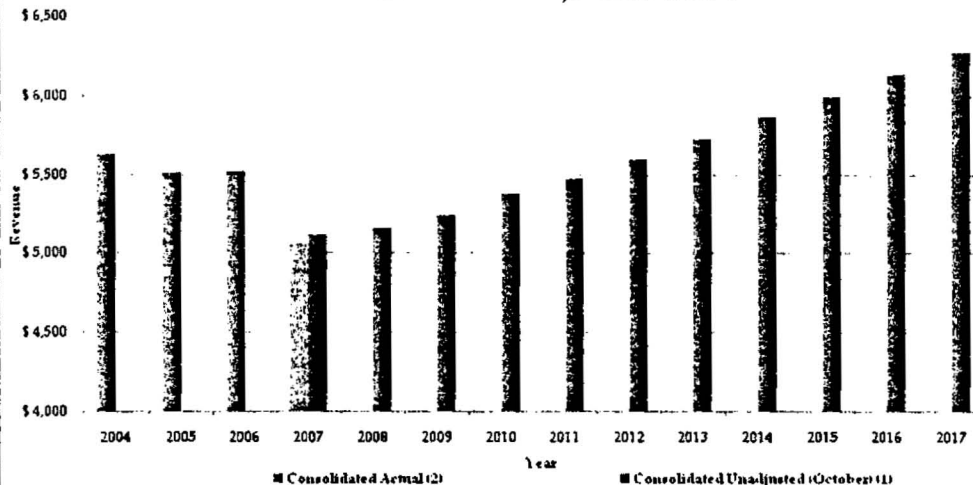
As discussed elsewhere in the Report,²²⁸⁵ between 2004 and 2006, Tribune reported year-over-year declining EBIT and EBITDA, both nominally and as a percentage of revenues. Expectations for 2007, as approved by the Tribune Board in February 2007, anticipated a continuation of that trend, and, as discussed earlier, Tribune performed unfavorably to that plan for most months during 2007 after the Tribune Board's approval of the Leveraged ESOP Transactions on April 1, 2007.

In accordance with these multi-year trends, Tribune's revised October 2007 projections assumed near term (*i.e.*, 2008 through 2011) downwardly revised expectations in comparison to the similar period in the February 2007 projections. The October 2007 projections nonetheless assumed that Tribune would mitigate certain of these anticipated declines by improved financial performance in specified areas. For example, the October 2007 projections included enhancements in the Publishing Segment's forecasted revenue and profitability derived from a newly executed agreement with Sun-Times Media Group (whereby Tribune would provide delivery of Sun-Times publications on a contract basis), and growth in Tribune's interactive business. Similarly, the October 2007 projections assumed that the Broadcasting Segment would enjoy improved profitability from, among other things, enhanced programming. The net result was an assumed stabilization in Tribune's financial performance, followed by a dramatic recovery, as shown in the tables below:

Based on VRC's work papers and e-mail correspondence, the record shows that VRC attempted to understand the assumptions underlying Tribune's projections, and challenged the reasonableness of certain of those assumptions, although, in the end, VRC relied on and adopted, without modification, management's forecasts for purposes of rendering its Step Two solvency opinion. As shown herein, certain of those assumptions were inconsistent with Tribune's performance trends and other information considered by the Examiner.

²²⁸⁵ See Report at § III.C.1.a.

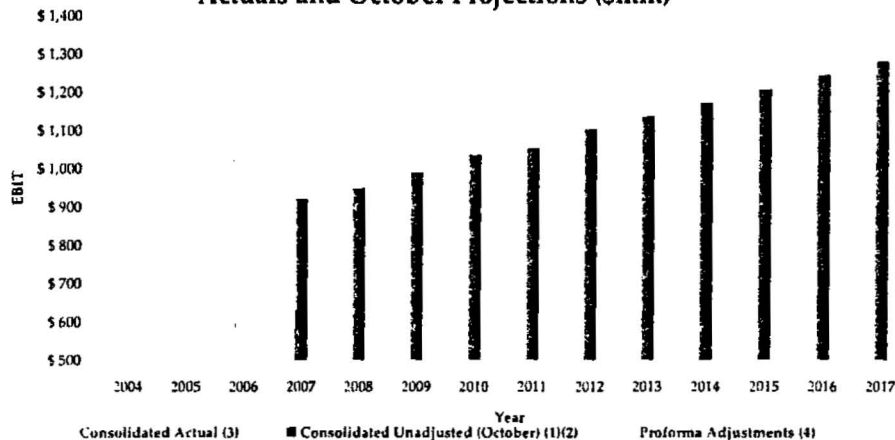
Consolidated Revenue Comparison between Actuals and October Projections (\$mm)



(1) Management's November 21, 2007 projections (Ex. 721 (Tribune Company Model, dated November 21, 2007), which corresponds to the October Five-Year Plan) exclude forecasted results for the Cubs, SCNI and Hoy, New York (because such businesses had been, or were contemplated to be sold). Management's November 21, 2007 projections were adjusted to account for the pro forma revenue contributions of the Cubs, SCNI and Hoy, New York based on amounts forecasted in February 2007 projections (Ex. 71 (ESOP Transaction Model - Revised Operating Plan Case, dated February 8, 2007)) to facilitate an "apples-to-apples" comparison to historical results which included the revenues from those businesses.

(2) 2004, 2005, and 2006 actuals from Ex. 14 (Tribune 2006 Form 10-K). 2007 actual is from Ex. 4 (Tribune 2007 Form 10-K). The 2007 Form 10-K revenue does not include revenues from discontinued operations (SCNI and Hoy, New York) whereas 2004-2006 results are inclusive of SCNI and Hoy, New York revenues. Normalized to exclude the effects of discontinued operations, revenues for 2004-2006 (as reported in Ex. 4 (Tribune 2007 10-K)) were \$5,543, \$5,427, and \$5,444 million respectively. The declining revenue

Consolidated EBIT Comparison between Actuals and October Projections (\$mm)



(1) Management's November 21, 2007 projections (Ex. 721 (Tribune Company Model, dated November 21, 2007), which corresponds to the October Five-Year Plan) exclude forecasted results for the Cubs, SCNI and Hoy, New York (because such businesses had been, or were contemplated to be sold). Management's November 21, 2007 projections were adjusted to account for the pro forma EBIT contributions of the Cubs, SCNI and Hoy, New York based on amounts forecasted in the February, 2007 projections (Ex. 71 (ESOP Transaction Model - Revised Operating Plan Case, dated February 8, 2007)) to facilitate an "apples-to-apples" comparison to historical results which included the EBIT contributions of those businesses.

(2) EBIT is calculated consistently with management projections (EBIT = Revenue - Operating Expenses - Stock Based Compensation - Depreciation & Amortization).

(3) 2004, 2005, and 2006 actuals from Ex. 14 (Tribune 2006 Form 10-K). 2007 actual is from the 2007 Form 10-K. The 2007 Form 10-K EBIT does not include results from discontinued operations (SCNI and Hoy, New York) whereas 2004-2006 results are inclusive of SCNI and Hoy, New York EBIT. Normalized to exclude the EBIT effect of discontinued operations, EBIT for 2004-2006 (as reported in Ex. 4 (Tribune 2007 10-K)) were \$1,041, \$1,121, and \$1,083 million respectively. The declining EBIT trend is nonetheless apparent, particularly given that 2008 results include 53 weeks.

(4) Non-operating adjustments added back to reported 2007 EBIT include severance, replacement fees, phantom equity compensation, changes-in control compensation and other items (including \$150 million goodwill write-off occurring in December), as detailed in the Period 12 Tribune Brown Book (page 5).

The Examiner also reviewed the specific forecasting assumptions underlying the above-described projected performance with respect to each of Tribune's two business segments. The forecasts for the Publishing Segment were based on certain key assumptions:²²⁸⁶

- The October 2007 plan forecasted a modest 0.35% decline in 2008 publishing revenues from 2007 pro forma results.²²⁸⁷ Although anticipating ongoing declines in traditional print advertising and circulation revenues, the projections assumed that these declines would be significantly mitigated by enhanced growth in, for example, interactive revenues,²²⁸⁸ and growth in revenues associated with contract delivery and print services (of the type negotiated with Sun-Times Media Services). Publishing revenues were forecasted to increase annually after 2008, at rates of 1.96%, 2.35%, 2.29%, and 2.32%, respectively, through 2012.²²⁸⁹

²²⁸⁶ Because forecasts of financial results for periods subsequent to 2012 were the result of extrapolating prior period results on the basis of fixed growth rate assumptions, *see* Ex. 739 (Representation Letters, dated December 20, 2007), these observations are limited to a discussion of projection assumptions through only 2012. Growth rate expectations for later years projected results are discussed elsewhere in this section.

²²⁸⁷ The October 2007 projections contained a "pro forma" estimate of 2007 actual results, based on a review of actual results to date and a forecast of the remainder of the year. *See* Ex. 657 (Tribune Five-Year Financial Outlook).

²²⁸⁸ The October projections relied on by VRC in conducting its Step Two analysis contemplated significant growth in interactive revenues and profitability as summarized below:

INTERACTIVE PROJECTIONS (\$mm)					
	2008	2009	2010	2011	2012
Interactive Revenue (1)	\$ 318.0	\$ 406.3	\$ 507.9	\$ 603.8	\$ 712.5
Interactive Operating Cash Flow	\$ 127.2	\$ 158.5	\$ 203.2	\$ 241.5	\$ 285.0
Operating Margin (2)	40%	39%	40%	40%	40%
(1) Interactive Revenues are derived from the Ex. 657 (Tribune Five-Year Financial Outlook) projections utilized by VRC in their Step Two Analysis					
(2) Interactive Operating Margins derived from Ex. 956 (Interactive Segment Projections)					

A detailed discussion of the valuation implications of management's projections of Tribune interactive financial performance is provided in connection with the Examiner's discussion of the reasonableness of VRC's Step Two conclusions.

²²⁸⁹ These projected growth rates are inconsistent with the historical declines in Publishing Segment revenues in prior periods: negative 0.8% from 2004 to 2005, negative 0.1% from 2005 to 2006, and negative 9.8%, based on the 2007 pro forma estimate in relation to 2006. The noted 9.8% decline is partially the result of Tribune's

TRIBUNE PUBLISHING SEGMENT REVENUE (\$mm)									
Publishing Segment	2004	2005	2006	2007 PF	2008	2009	2010	2011	2012
Revenue	\$ 4,130	\$ 4,097	\$ 4,093	\$ 3,693	\$ 3,680	\$ 3,752	\$ 3,840	\$ 3,928	\$ 4,019
Growth		0.8%	-0.1%	9.8%	-0.4%	2.0%	2.3%	2.3%	2.3%

(1) Source: Ex. 14 (Tribune 2006 Form 10-K); Ex. 657 (Tribune Five-Year Financial Outlook).

• The October 2007 plan forecasted \$786 million in operating cash flow for the Publishing Segment for 2008, reflecting a 3.91% decline from 2007 pro forma expectations. The October 2007 plan also assumed, however, that operating cash flow thereafter would increase 3.6% annually through 2012. Management explained that this latter increase was "due to higher [projected] interactive and targeted print revenue."²²⁹⁰ Expressed as a percentage of forecasted publishing revenue, the October 2007 plan forecasted publishing operating cash flow to increase each year from 2008 through 2012 (21.36%, 21.70%, 21.98%, 22.28%, and 22.54% for 2008 through 2012, respectively).

The forecast for the Broadcasting Segment was based on the following:

disposition of certain publishing assets in 2007 and the fact that 2006 results were based on a 53 week year. Even when growth rates are analyzed on the basis of a presentation of historical results normalized for discontinued operations and to eliminate the effects of the extra week informing 2006 reported results, the forecasted Publishing Segment growth rates nonetheless still reflect significant growth antithetical to prior performance.

TRIBUNE PUBLISHING REVENUE (\$mm) (1)				
As Reported	2004	2005	2006	2007
Revenue	4041.014	4012.413	4018.418	3664.59
% Growth		-0.71%	0.15%	-8.81%
As Adjusted	2004	2005	2006 (52 weeks)	2007
Revenue	4041.014	4012.413	3939.62549	3664.59
% Growth		-0.71%	-1.81%	6.98%

(1) Ex. 4 (Tribune 2007 Form 10-K). 2004 through 2007 results presented on a normalized basis to account for asset dispositions through 2007. 2006 results are also presented on the basis of a 52-week year calculated as 2006 actual revenues divided by 1.02 based on an approximation of the impact of the additional week as disclosed in Ex. 4 at 9 (Tribune 2007 Form 10-K).

²²⁹⁰ See Ex. 657 at 11 (Tribune Five-Year Financial Outlook).

• The October 2007 projection model forecasted baseline advertising revenue growth of 2.3% in 2008, followed by 1.1% annual growth thereafter through 2012, although the projection model also anticipated and accounted for other material increases in non-baseline revenues associated with, among other things, political advertising in election years, such that total broadcasting and entertainment revenues were forecasted to increase at annual growth rates of 7.99%, 0.56%, 3.40%, 0.77%, and 2.66% for 2008 through 2012, respectively.

• The October 2007 projection model contemplated significant improvement in operating cash flow²²⁹¹ to be generated by the Broadcasting Segment, forecasting an increase of more than 16% above 2007 pro forma expectations for 2008, with annual growth rates thereafter through 2012 of 3.57%, 3.23%, (2.92%), and 4.09% respectively. Operating cash flow, expressed as a percentage of forecasted revenue, was forecasted as 35.64%, 36.71%, 36.65%, 35.31%, and 35.8% for the years 2008 through 2012, respectively. These percentages reflect management's expectation of significant performance improvement above historical levels, though recognizing that historical results included the Chicago Cubs that had contributed below average margins historically.²²⁹²

²²⁹¹ The Examiner notes that the October 2007 projections exclude the Chicago Cubs. Ex. 721 (Tribune Company Model, dated November 21, 2007).

²²⁹² When compared to historical 2004 through 2006 (and pro forma 2007) actual results, the forecasted Broadcasting Segment EBITDA as a percentage of forecasted revenues (as assumed in the October 2007 projections) contemplated significant improvement above recent historical margins.

TRIBUNE BROADCASTING SEGMENT EBITDA AS A PERCENT of REVENUE (\$mm)									
Broadcasting Segment	2004	2005	2006	2007 PF	2008	2009	2010	2011	2012
Revenue	\$ 1,502	\$ 1,414	\$ 1,425	\$ 1,164	\$ 1,257	\$ 1,264	\$ 1,307	\$ 1,317	\$ 1,352
Growth		-7.8%	0.8%	-18.3%	8.0%	0.6%	3.4%	0.8%	2.7%
EBITDA	\$ 563	\$ 465	\$ 443	\$ 384	\$ 448	\$ 464	\$ 479	\$ 465	\$ 484
Growth		-17.3%	-4.8%	-13.3%	16.7%	3.6%	3.2%	-2.9%	4.1%
EBITDA Percentage of Revenue	37.5%	32.9%	31.1%	33.0%	35.6%	36.7%	36.6%	35.3%	35.8%

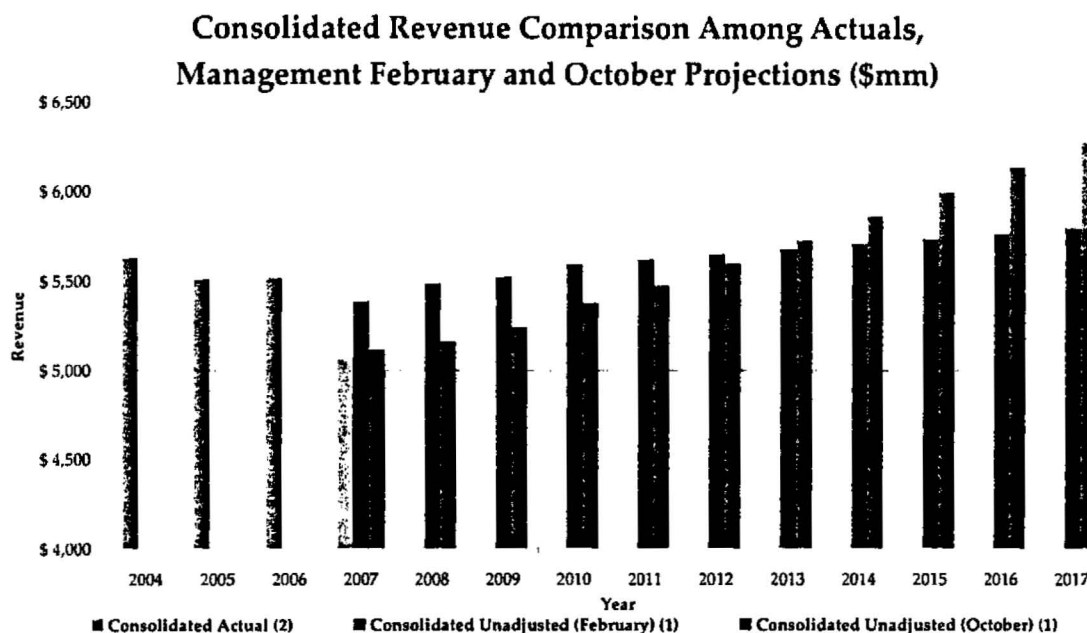
(1) 2007 pro forma and 2008-2012 forecasts exclude the Cubs; 2004-2006 actual results include the Cubs

The Examiner contrasted the October 2007 forecast with expectations embodied in the February 2007 projections. ~~By comparing projected results contained in ESOP projection models (which correspond to both the February 2007 and October 2007 materials discussed with the Tribune Board at the respective February 2007 and October 2007 meetings);~~²²⁹³ ~~the following is evident, despite reflecting downwardly revised expectations for the near term, the October 2007 projections assumed that Tribune, on a consolidated basis, would rapidly recover from this decline, and also that, over the longer term, Tribune would exceed the performance expectations embodied in the February 2007 projections. The Examiner finds these assumptions~~ ~~unsubstantiated.~~ In his interview with the Examiner, Harry Amsden stated that the out-year projections (*i.e.*, years 2011 to 2016) developed in February 2007, despite being based on an "extrapolation" of growth rates observed from projected 2011 results in relation to 2010 results, represented Tribune management's best estimate at that time, and that, by October 2007, it was clear that those expectations were not being met.²²⁹⁴ The Tribune Entities' negative financial performance on an overall basis following the closing of the Step One Transactions (a continuation of historical performance trends, as shown above) should have resulted in a downward adjustment of the out-year assumptions contained in the February 2007 projections,

²²⁹³ The Examiner notes that, although the ESOP projection models corresponding to the February 2007 and October 2007 plans discussed with the Tribune Board contained projections for ten years, the materials discussed with, and presented to, the Tribune Board correspond to a shorter projection horizon. Ex. 657 at 11 (Tribune Five-Year Financial Outlook).

²²⁹⁴ Examiner's Interview of Harry Amsden, July 2, 2010. In his interview Mr. Amsden also explained that projections in the shorter term were based on more detailed information, the out-year projections were more of an "extrapolation," and he believed that the banks did not rely on the out-year projections. *See also* Ex. 250 (Representation Letters, dated May 9, 2007). Both Mr. Browning and Mr. Rucker confirmed that Tribune management's February 2007 forecast of flat to slightly declining revenue growth for the Broadcast Segment for the years 2010 through 2017 were reasonable, according to Mr. Rucker "based upon management's representation and the conversations that we had," which, according to Mr. Browning, made them "comfortable with the forecast." Examiner's Sworn Interview of Mose Rucker and Bryan Browning, June 30, 2010, at 92:2-16.

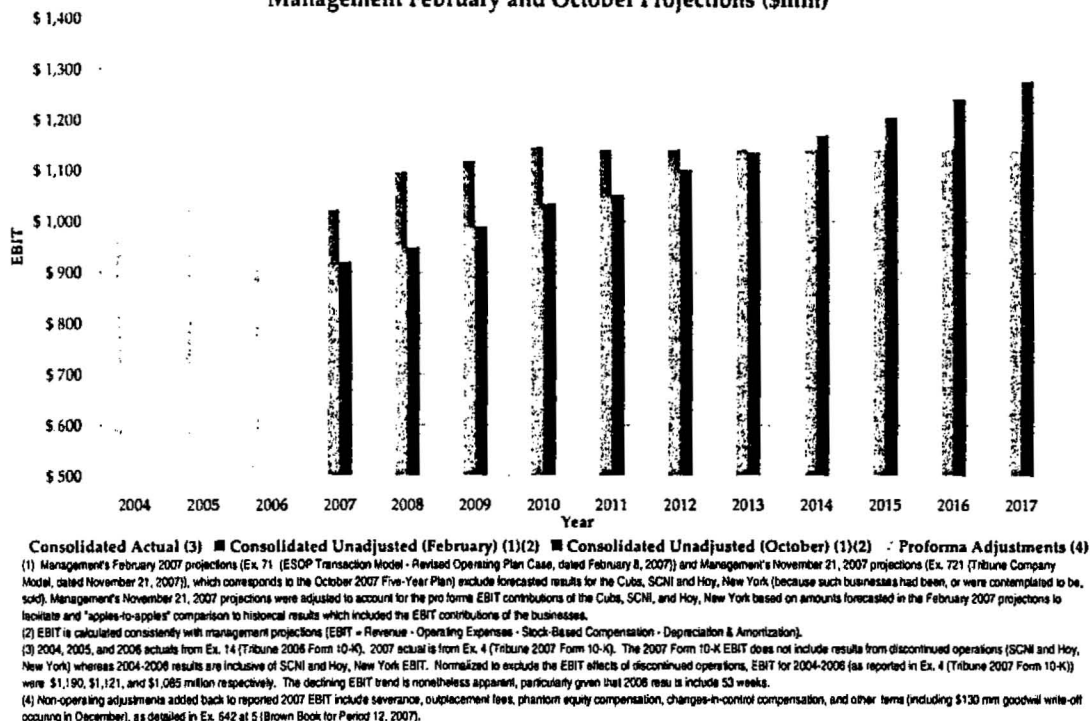
holding all else constant. A comparison of the February 2007 and October 2007 projections shows that management made the opposite assumption without explanation or justification:



(1) Management's February 2007 projections (Ex. 71 (ESOP Transaction Model - Revised Operating Plan Case, dated February 8, 2007)) and Management's November 21, 2007 projections (Ex. 721 (Tribune Company Model, dated November 21, 2007)), which corresponds to the October 2007 Five-Year Plan) exclude forecasted results for the Cubs, SCNI and Hoy, New York (because such businesses had been, or were contemplated to be, sold). Management's November 21, 2007 projections were adjusted to account for the pro forma revenue contributions of the Cubs, SCNI, and Hoy, New York based on amounts forecasted in February, 2007 projections to facilitate and "apples-to-apples" comparison to historical results which included the revenue from those businesses.

(2) 2004, 2005, and 2006 actuals from Ex. 14 (Tribune 2006 Form 10-K). 2007 actual is from the Ex. 4 (Tribune 2007 Form 10-K). The 2007 Form 10-K revenue does not include revenues from discontinued operations (SCNI and Hoy, New York) whereas 2004-2006 results are inclusive of SCNI and Hoy, New York revenues. Normalized to exclude the effects of discontinued operations, revenues for 2004-2006 (as reported in Ex. 4 (Tribune 2007 Form 10-K)) were \$5,543, \$5,427, and \$5,444 million respectively. The declining revenue trend is nonetheless apparent, particularly given that 2006 results include 53 weeks.

**Consolidated EBIT Comparison between Actuals,
Management February and October Projections (\$mm)**



Both the February 2007 and October 2007 models, which contained detailed annual forecasts of revenue and cash flow for the near term (2007 through 2011 in the February 2007 model and 2008 through 2012 in the October 2007 model), extrapolated business segment growth rates observed between the last two years of the detailed annual projections (*i.e.*, the growth rate between 2010 and 2011 in the February 2007 model, and the growth rate between 2011 and 2012 in the October 2007 model) for purposes of forecasting annual growth in subsequent years.²²⁹⁵ It appears that the approach was undertaken at the direction of Tribune

²²⁹⁵ Mr. Amsden indicated that the process for forecasting the final five years of the projections in both the February 2007 and October 2007 projections involved a straightforward extrapolation of performance based on the growth rates informing the last interim period of each projection. Examiner's Interview of Harry Amsden, July 2, 2010; Ex. 739 (Representation Letters, dated December 20, 2007). When similarly asked about the out-year projections, Mr. Grenesko testified that Tribune management was "assuming that modest economic growth and the inflation would be around 2 1/2 percent or so, and we used that to extrapolate both the revenues and the expenses for the two groups." Examiner's Sworn Interview of Donald Grenesko, July 8, 2010, at 166:3-7.

Treasurer Chandler Bigelow, who in e-mails to Rosanne Kurmaniak of Citigroup (the individual responsible for maintaining Tribune's complex projection models), suggested "We probably ought to take down the assumed CAGRs in the post 2012 years" and followed up with "How about we make post 2012 revenue/OCF CAGRs the same as the growth assumed in 2012 for both Publishing/Broadcasting?"²²⁹⁶

This does not explain, however, the difference in the out-year growth assumptions between the February 2007 and October 2007 projections. The February 2007 projections assumed flat growth even though the prospect for GDP growth in February 2007 certainly was not higher than in October 2007.

Mr. Grenesko also pointed to the "bottoms up" evaluation and a "very thoughtful process that the publishing group went through to identify exactly why our revenues had fallen and whether it was divided into three buckets, basically what was secular, what was cyclical, and what was execution." Examiner's Sworn Interview of Donald Grenesko, July 8, 2010, at 165:16 and 168:6-11. Mr. Grenesko stated that in conjunction with that process the publishing group "came up with reasons for the issues that we were having in publishing and they also came up with both revenue ideas, new revenue streams that they thought that they could implement as well as reducing expenses going forward . . . [and that] the publishing group worked with an outside consultant to come up with a way to transform the publishing group and to change the culture of the publishing group, basically shifting it from more of a traditional newspaper company over to one that was less dependent on the traditional newspaper and to think of the company more as a content provider as opposed to a newspaper, and also much more heavily weighted towards than what it previously had been towards the Internet." *Id.* at 168:12-17, 169:2-12. For example, he noted that the five-year plan included increased funding for interactive personnel and the interactive business. *Id.* at 171:9-15. He also noted efforts to generate revenues from preprints, targeted publications, and delivery services. *Id.* at 170:9-171:4 and 172:16-173:2. In connection with these efforts, Mr. Grenesko directed the Examiner to Tribune's five-year business plan which he testified "laid things out very succinctly." *Id.* at 169:16-17

Mr. Grenesko's explanation of the assumptions underlying the five-year business plan, however, does not explain the growth assumption for the out-years 2013-2017. Regarding that specific assumption, Mr. Grenesko acknowledged that this was an extrapolation using the 2012 growth that "seemed reasonable based upon what I stated had previously about the inflation rate and the real GDP growth, so those seemed reasonable—that—those growth rates seemed reasonable compare to the general macro trends that we were assuming." *Id.* at 178:20-179:3. Mr. Grenesko further testified he did not "recall anything specific" about this assumption. *Id.* at 183:21-22.

Similarly, when VRC was asked what might explain the projected performance for the years 2013 through 2017 in the October projections, Mr. Rucker said, "What it appears to me is that they might have applied some type of growth rate after 2012." Examiner's Sworn Interview of Mose Rucker and Bryan Browning, June 30, 2010, at 118:3-5. Mr. Rucker stated that generally such growth rates are keyed off of Gross Domestic Product (GDP). *Id.* at 118:24 -120:7. However, later in the interview, Mr. Browning stated that he could not recall whether he was aware of any differences in the growth rates management used between Step One and Step Two. *Id.* at 135:12-17.

For the reasons discussed in this section of the Report, the Examiner has determined that the out-year growth assumptions posited in the October 2007 forecast were unreasonable and unjustifiable.

²²⁹⁶ Ex. 889 (Roth E-Mail, September 27, 2007). When questioned about the latter e-mail during her sworn interview, Ms. Kurmaniak corroborated this point:

Q: Do you have any idea why he made that comment and statement to you? It's got a question mark so he actually appears to be asking a question, but let's begin with did you treat it as a question?

The long term growth rates implied by these extrapolations result in starkly different long term growth rates between the February 2007 and October 2007 models, as shown below:

A: They had a company prepared plan for 2000 through 2012 and so somebody has to make a judgment as to what's going to happen post that period because nothing was officially endorsed or provided to us or by the company. So someone had to make a judgment about what those revenue and operating cash flow growth rates were going to look like. In this case it was Chandler. That's who I talked to every day about all this and so I think he's just giving us guidance and it's a common practice to say okay, in the last, in the five-year why don't we just assume that the business grows at the same pace or performs at the same pace as it did in the last year that we've officially projected it. So that's a common practice. It's a common assumption that we use which is just to say we don't really know what it's going to be in five years, but our best guess would be that it's going to perform at the same as it did in the five, you know, in the last year that we actually did an official projection for. And, look, from time to time Chandler would come to me and say, hey, does that sound reasonable? And I'd say yes or no, it doesn't sound reasonable and so it looks like that's what this E-mail chain is.

Q: All right. And so what was your response? Did you think it was reasonable to use that approach?

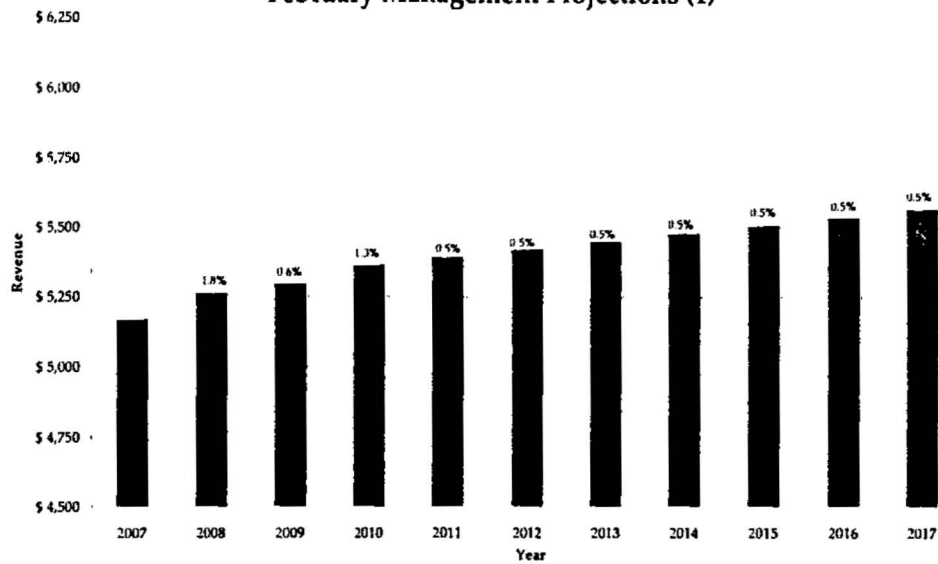
A: Yes.

Examiner's Sworn Interview of Rosanne Kurmaniak, July 7, 2010, at 137:9-139:1.

Although Ms. Kurmaniak testified that she felt that extrapolating the growth from 2012 to later years was reasonable, she acknowledged that she did not focus on the fact that 2012 was an election year and possibly an outlier. *Id.* at 139:6-14 and 140:1-4. She suggested that if something other than an extrapolation from 2012 were used, adjustments in the out-year projections would have to be made based on the timing of elections and other anticipated occurrences in those years. *Id.* at 142:20-143:13. Regardless, a justification of expected "out-year" growth rates on the basis of expected GDP growth would be contrary to Tribune's observed historical growth rates in relation to actual GDP growth historically.

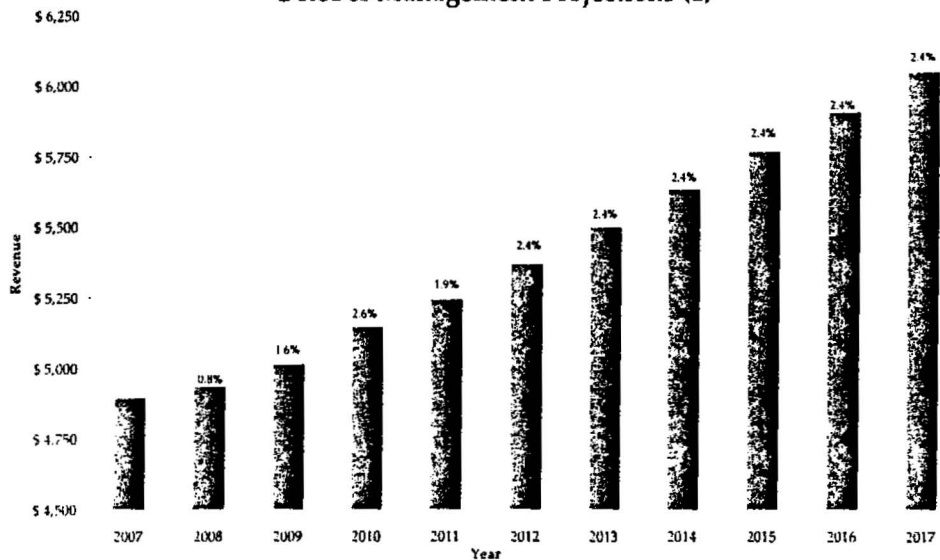
COMPARISON OF GDP GROWTH RATES TO TRIBUNE HISTORICAL REVENUE GROWTH RATES 2004 - 2007 (\$mm)						
	2003	2004	2005	2006	2007	Notes
Real GDP	\$ 11,840,700.0	\$ 12,263,800.0	\$ 12,638,400.0	\$ 12,976,200.0	\$ 13,254,100.0	[A], [B]
<i>Real GDP Growth</i>		3.57%	3.05%	2.67%	2.14%	
Nominal GDP	\$ 11,142,100.0	\$ 11,867,800.0	\$ 12,638,400.0	\$ 13,398,900.0	\$ 14,077,600.0	[A]
<i>Nominal GDP Growth</i>		6.51%	6.49%	6.02%	5.07%	
Nominal Revenue	\$ 5,440.8	\$ 5,542.6	\$ 5,426.8	\$ 5,443.6	\$ 5,063.0	[C]
<i>Revenue Growth</i>		1.87%	-2.09%	0.31%	-6.99%	
Notes:						
[A] http://www.bea.gov/national/index.htm						
[B] Converted to 2005 base year.						
[C] Normalized Revenue from Ex. 4 (2007 Tribune Form 10-K). Results reflect operations as normalized for discontinued operations.						

Tribune Consolidated Revenue (\$mm)
February Management Projections (1)



(1) The revenue figures above include forecasted revenues excluding the Chicago Cubs and other discontinued operations (e.g., SCNI and Hoy, New York). Prior presentations of revenue forecasts inclusive of pro forma estimates of revenue for those businesses were necessary to facilitate a comparison of projected results to actual results, which include the Chicago Cubs and subsequently discontinued operations (SCNI and Hoy, New York) in reported amounts.

Tribune Consolidated Revenue (\$mm)
October Management Projections (1)



(1) The revenue figures above include forecasted revenues excluding the Chicago Cubs and other discontinued operations (e.g., SCNI and Hoy, New York). Prior presentations of revenue forecasts inclusive of pro forma estimates of revenue for those businesses were necessary to facilitate a comparison of projected results to actual results, which include the Chicago Cubs and subsequently discontinued operations (SCNI and Hoy, New York) in reported amounts.

Both the February 2007 and October 2007 models "benchmarked" future growth expectations from the growth rates implied by the final year of the detailed annual projection. In the February 2007 model, the final year was 2011. Thus, the model extrapolated the growth rate from 2010 to 2011 in determining the growth rate from 2012 to 2016, whereas the October 2007 model added another year (*i.e.*, 2012) and extrapolated the growth rate from 2011 to 2012 in determining the growth rate from 2013 to 2017. Although this simplified the modeling assumption, the application of these growth assumptions resulted in starkly different projected outcomes for Tribune's long term revenue and profitability. Because VRC adopted these assumptions without adjustment in its Step Two opinion, this significantly (and upwardly) affected VRC's Step Two valuation conclusions by approximately \$613 million.²²⁹⁷

²²⁹⁷ When the Examiner asked VRC why it went from using a five-year DCF analysis at Step One to a ten-year DCF analysis at Step Two, Mr. Browning replied:

So I think this—I don't recall any—there was no discussion that I recall that said, hey, let's move this from five-year to a ten-year. I think it was probably a natural thought process as we went through it to say it makes more sense to look at it by ten-year. We did—we may have looked at it both ways, but I don't think the outcome would be material whether it was five-year or ten-year. I don't know for sure. But there was never an intention to say the five-year doesn't work, let's make it a ten-year.

Examiner's Sworn Interview of Mose Rucker and Bryan Browning, June 30, 2010, at 148:4-18.

Mr. Rucker then added:

And if I might add, with a DCF, in your end year, you have a terminal growth rate or terminal multiple that's supplied. And so, you know, that's an important factor, you know, in your DCF, in your overall DCF value. So the mere fact that you switched from a five to a ten, with that terminal value, it doesn't necessarily mean you are going to get a substantially different -- different answer.

Id. at 148:22-149:10.

As noted earlier in this section of the Report, the change in DCF enterprise value that resulted from adding an incremental five years of discrete period cash flow to VRC's DCF Step Two analysis (in relation to VRC's Step One analysis where only five years of discrete period cash flows were considered before adding a terminal value) added approximately \$613 million to the Step Two DCF value, all other things being equal.

Because 2012 represents a presidential election year, and Tribune's forecasting model specifically recognized that election year spending enhances Tribune financial performance, the growth rate between 2011 and 2012 reflects the periodic four-year effects of such increases. By extrapolating growth rates obtained from a comparison of a non-election year financial performance to a presidential election year expectation, and applying that growth rate annually thereafter, Tribune's projection model effectively assumed compounding increases in each and every prospective forecast year. The net result in effect was to assume that every year from 2012 to 2017 would be a presidential election year and bigger than the last. This explains why the out-year projections developed in the October 2007 model exceeded those used in the February 2007 model. Although one could argue that the February 2007 model contained the opposite flaw (in effect assuming that no election would occur between 2012 and 2016), in fact the 2012 to 2016 forecast contained in the February 2007 model was consistent with Tribune's historical performance, as described above. The Examiner finds it inexplicable that VRC used the 2013 to 2017 projections in developing its Step Two solvency opinion without making any adjustment in light of Tribune's historical performance trends, Tribune's performance after the

COMPARISON OF DECEMBER DCF MODELS WITH AND WITHOUT YEARS 6 - 10 at Present Value and at Mid Range Value (\$mm)				
	Years 1 - 5	Years 6 - 10	Terminal Value	Total Enterprise Value
VRC December Model 10-year Interim Period Plus Terminal Value	\$ 2,644.3	\$ 2,085.2	\$ 5,480.4	\$ 10,209.9
Alternative VRC December Model 5-year Interim Period Plus Terminal Value	\$ 2,644.3	Included in Terminal Value	\$ 6,953.0	\$ 9,597.3
Value Difference				\$ 612.6

closing of the Step One Transactions, or the assumptions underlying the February 2007

projections or the out years.²²⁹⁸

²²⁹⁸ It appears that as early as December 2, 2007, management was aware that VRC had substantially revised its analysis to include the extrapolated out-years (*i.e.*, years 2013-2017) in reaching its valuation conclusions for Tribune at Step Two. On that date, Mose Rucker e-mailed Chandler Bigelow stating:

Please find attached a draft of our internal review document. This will not be shared with the Board. We will send out the Board Presentation as soon as it is complete.

Ex. 888 (Bigelow E-Mail, dated December 2, 2007). On that same date, Mr. Bigelow responded: "Thanks." *Id.*

A review of VRC's work papers dated December 3, 2007 reflect that VRC had revised its DCF analysis to include a ten-year interim period through 2017. Ex. 740 (VRC Internal Review Document - Tribune Company Preliminary Solvency Analysis, dated December 3, 2007). It appears that VRC first changed its DCF analysis from a five-year interim period to a ten-year interim period between sometime between November 27, 2007 and November 30, 2007. Compare Ex. 1003 at VRC0067889 (VRC Internal Review Document, Tribune Company Preliminary Solvency Analysis, dated November 27, 2007) with Ex. 742 at VRC0063401 (VRC Internal Review Document, Tribune Company Preliminary Solvency Analysis, dated November 30, 2007).

Tribune's representation letter sent to VRC at Step Two specifically referenced management's extrapolation of its projections through 2017 based on the expected growth rates from 2011 to 2012, stating as follows:

The provided financial forecasts of Tribune, on a consolidated and pro-forma basis, (as represented in the Excel file entitled model_negotiated_proposal_november21_2007.xls" delivered to VRC via e-mail on November 21, 2007) reflect Management's best estimates of Tribune Base and Tribune Downside case forecasts. This file includes projections based on Management's five-year financial outlook through 2012 (the "Five-Year Outlook") and the subsequent extrapolation by Management of these projections through 2017 applying the revenue and operating cash flow growth rates for the fifth year of the Five-Year Outlook and other underlying assumptions as used in developing the Five-Year Outlook. While such forecasts are subject to many factors outside Management's control, in Management's view they are reasonable and attainable based on Management's involvement and understanding of the business operations, its markets, the strategic vision, the competitive landscape, and regulatory and economic trends.

Ex. 739 (Representation Letters, dated December 20, 2007).

By contrast, the analog management representation letter sent to VRC at Step One makes no mention of extrapolated projections or a longer projection period, generically stating:

The provided financial forecasts of Tribune, on a consolidated and pro-forma basis, (as represented in the financial forecast model (ESOP Transaction Model dated April 4, 2007) provided to VRC reflect Management's best estimates, and, while such forecasts are subject to many factors outside Management's control, in Management's view they are reasonable and obtainable based on Management's involvement and understanding of the business operations, its markets, the strategic vision, the competitive landscape, and regulatory and economic trends.

Ex. 250 (Representation Letters, dated May 9, 2007).

The Examiner concludes that Tribune's management must have realized the significance of the added language in the Step Two representation letter and that VRC's valuations of Step Two would likely (if not certainly) have reflected these extrapolated projections.

It appears that the Tribune Board was never presented with the ten-year growth model (*i.e.*, with extrapolated years 2013 through 2017) that management knew VRC was utilizing to reach its valuation conclusions. See Examiner's Sworn Interview of Donald Grenesko, July 8, 2010, at 175:16-21 and 186:13-18. (In an errata sheet dated July 20, 2010, Mr. Grenesko changed the portions of his testimony bearing on this point. When asked whether the model presented to the Tribune Board "included the extrapolated growth rates from 2013 to 2017 or

The Examiner also evaluated the near term expectations of the Tribune Entities' financial performance in the October 2007 plan in comparison to analyst expectations in the period preceding the closing of the Step Two Transactions. The comparison reveals that Tribune management's expectations regarding Tribune's ability to generate EBITDA from gross revenues were more optimistic than expectations held by analysts. Because EBITDA is a driver of value, any overstatement in EBITDA expectations informing the October 2007 plan would result in an overstatement of valuation results accordingly:

2008 IBES FORECAST v. OCTOBER PLAN				
	Revenue		EBITDA	
	Mean	Median	Mean	Median
August 2007	\$ 4,982.1	\$ 5,015.1	\$ 1,081.7	\$ 1,110.9
September 2007	\$ 4,971.9	\$ 4,983.7	\$ 1,074.5	\$ 1,088.4
October 2007	\$ 4,993.1	\$ 5,014.2	\$ 1,096.7	\$ 1,140.3
November 2007	\$ 4,987.7	\$ 5,009.0	\$ 1,092.6	\$ 1,135.2
Management October Plan	\$ 4,936.0		\$ 1,193.0	

As shown in the chart above, Tribune estimated that it could achieve \$1.193 billion in EBITDA from \$4.936 billion in revenue, which equated to approximately 10% higher EBITDA than analysts' estimates even though Tribune forecasted *lower* revenues than these analysts.

(2) VRC Unreasonably Ignored its Own Internal Critiques of the October 2007 Projections.

The Examiner also reviewed and assessed a detailed analysis prepared by VRC of the October 2007 projections. Of particular note is a VRC internal assessment of the reasonableness of Tribune management's revenue and expense growth rate assumptions informing Tribune

was it only a five-year model," Mr. Grenesko originally responded: "I believe that was just a five-year." *Id.* at 175:16-21. The errata sheet, which is appended to the transcript of Mr. Grenesko's sworn interview, changes the answer to: "I believe that was just a five-year model in our plan, but I believe VRC's solvency report included projections beyond the initial five years." Similarly, when asked whether the detailed numbers for years 2013 through 2017 "were [ever] provided to the board in a board meeting," Mr. Grenesko originally responded: "I don't believe so." *Id.* at 186:13-18. The errata sheet changes the answer to: "I believe VRC's solvency reports included projections beyond the original five years.")

projections that were provided to VRC in late September 2007.²²⁹⁹ This assessment was memorialized in several October 29, 2007 internal VRC memoranda that, according to Bryan Browning, were the result of a routine procedure whereby analysts assisting him on valuation projects memorialized their work.²³⁰⁰

The adjustments to Tribune's projection parameters recommended by the VRC analysts in these memoranda were the result of VRC's due diligence review and analyses then conducted to date. The extent of the information gathered and processed by VRC in connection with its assessment can be gauged, to a significant degree, by the e-mails between VRC and Tribune management in which VRC requested (and management delivered) the data for VRC's analysis.²³⁰¹ VRC's October 29, 2007 memoranda include observations based on discussions with Tribune's management, independent analysis of the Tribune Entities' historical performance, and outside analyst opinions reviewed by VRC as part of its analysis.

Changes to Tribune management's revenue and expense growth rate projections, as recommended by VRC analysts, were incorporated by VRC into a DCF valuation.²³⁰² The

²²⁹⁹ Importantly, these projections, with respect to forecasted revenue and EBITDA, agreed with the projection model ultimately relied on by VRC in rendering its Step Two solvency opinion.

²³⁰⁰ See Ex. 1004 at VRC0034756-85 (Mednik E-Mail, dated October 31, 2007). Mr. Browning was asked about the nature of the document at his Rule 2004 examination:

Q. Did you see memoranda like this prepared by Mr. Mednik in the October 2007 timeframe?

A: Yes, memorandum like this. I told all my analysts to put their assumptions to file, so it was a general kind of procedure.

Ex. 262 at 121:10-16 (Rule 2004 Examination of Bryan Browning, December 4, 2009).

²³⁰¹ See, e.g., Ex. 953 (Bigelow E-Mail, dated September 20, 2007); Ex. 897 (Bigelow E-Mail, dated September 21, 2007); Ex. 901 (Bigelow E-Mail, dated September 21, 2007); Ex. 902 (Bigelow E-Mail, dated September 21, 2007); Ex. 903 (Bigelow E-Mail, dated September 21, 2007); Ex. 904 (Bigelow E-Mail, dated September 21, 2007); Ex. 905 (Bigelow E-Mail, dated September 25, 2007); Ex. 906 (Litman E-Mail, dated September 26, 2007); Ex. 907 (Mednik E-Mail, dated September 27, 2007); Ex. 908 (Bigelow E-Mail, dated September 28, 2007); Ex. 909 (Bigelow E-Mail, dated September 30, 2007); Ex. 910 (Bigelow E-Mail, dated October 3, 2007); Ex. 911 (Bigelow E-Mail, dated October 3, 2007); Ex. 912 (Bigelow E-Mail, dated October 15, 2007).

²³⁰² Ex. 1004 at VRC0034756-85 (Mednik E-Mail, dated October 31, 2007). VRC analysts contributing to the October 29, 2007 memoranda included Leonid Mednik (Broadcasting Revenue Assumptions), Shakespeare

resulting valuation indications were included in VRC's internal analysis and contrasted sharply with valuation indications based on DCF valuation conclusions derived from Tribune's projections without adjustment. The difference at the estimated midpoint²³⁰³ of the two DCF valuations approximated \$1.240 billion (Tribune management-based DCF mid-point value of \$10.1105 billion versus VRC's DCF mid-point value of \$8.8705 billion).²³⁰⁴

The specific differences between Tribune management's revenue and EBITDA growth rates on a consolidated basis and the resulting nominal estimations related thereto, as well as VRC's growth rates and estimations, are presented below. The table also includes the growth rates and amounts adopted by VRC for purposes of its final valuation of Tribune's operating assets. ~~Notably, despite the fact that several internal VRC memoranda suggested that it was appropriate to make different assumptions and reach different conclusions than those reached by~~

James (Broadcasting Expense Assumptions), and Mose Rucker (Publishing Assumptions, Classified Assumptions, Circulation Assumptions, and Interactive Assumptions).

²³⁰³ Rather than actually calculating a mid-point of their range of discount rates and exit multiple combinations, VRC typically calculated a simple average of the extreme end-points of the value indications generated from their range of combinations for purposes of their presentation of ranged DCF values. The Examiner refers to this mid-point as the "estimated" mid-point, and refers to the mid-point based on application of the specified parameters yielding a mid-point valuation indication as the "actual" or "calculated" mid-point.

²³⁰⁴ As is typical with shorter duration interim period DCF models, most of the DCF model value is situated in the terminal period rather than in the discrete interim period projections of both models. Of the \$1.240 billion difference in mid-point value indication between the VRC and Tribune DCF indications, 70.5%, or \$873 million, is explained by the difference in terminal period values of the two models. This concentration of value difference in the terminal period highlights the significance of the EBITDA parameters estimated for the last interim period—\$1.383 billion in the case of Tribune's projections and \$1.220 billion in the case of VRC's downwardly revised estimate—since VRC used an "exit multiple" of EBITDA to estimate terminal value. The difference of \$163 million in the two terminal period EBITDA multiples is the result of VRC's application of lower growth and profitability rates during the interim projection period than those applied by Tribune management. The \$163 million in ending EBITDA difference also explains the substantial difference in terminal values between the two models, since exactly the same exit multiples and discount rate combinations are applied to the two respective model's final period EBITDA to estimate the terminal values for each. When "capitalized" through application of the exit multiple and brought to present value, the \$163 million terminal period EBITDA difference explains \$873.4 million of the total \$1.240 billion of total DCF difference. It should be noted that in this particular version of VRC's DCF model, six years of interim period projections (2008 through 2013) are forecast before a terminal period (perpetuity) value is calculated based on the application of exit multiples ranging from 8.0x to 9.0x.

Tribune management, as explained in more detail below, VRC nonetheless adopted

management's numbers in its solvency analysis.

CONSOLIDATED ASSUMPTION COMPARISON (\$mm)							
Revenue Assumptions - Base Case	FY 2007P	FY 2008E	FY 2009E	FY 2010E	FY 2011E	FY 2012E	FY 2013E
Tribune October 28, 2007 Analysis	\$ 4,856.7	\$ 4,936.4	\$ 5,016.1	\$ 5,146.8	\$ 5,244.8	\$ 5,371.1	\$ 5,500.4
Growth Rate		1.6%	1.6%	2.6%	1.9%	2.4%	2.4%
VRC October 29, 2007 Analysis	\$ 4,856.7	\$ 4,831.1	\$ 4,856.1	\$ 4,898.7	\$ 4,953.9	\$ 5,015.2	\$ 5,077.3
Growth Rate		-0.5%	0.5%	0.9%	1.1%	1.2%	1.2%
VRC December 20, 2007 Analysis	\$ 4,856.7	\$ 4,936.4	\$ 5,016.1	\$ 5,146.8	\$ 5,244.8	\$ 5,371.1	\$ 5,500.4
Growth Rate		1.6%	1.6%	2.6%	1.9%	2.4%	2.4%
Operating Cash Flow Assumptions - Base Case	FY 2007P	FY 2008E	FY 2009E	FY 2010E	FY 2011E	FY 2012E	FY 2013E
Tribune October 28, 2007 Analysis	\$ 1,160.3	\$ 1,193.3	\$ 1,236.8	\$ 1,282.1	\$ 1,298.6	\$ 1,348.8	\$ 1,382.7
OCF Margin	23.9%	24.2%	24.7%	24.9%	24.8%	25.1%	25.1%
VRC October 29, 2007 Analysis	\$ 1,160.3	\$ 1,106.4	\$ 1,131.5	\$ 1,152.6	\$ 1,172.7	\$ 1,202.8	\$ 1,219.7
OCF Margin	23.9%	22.9%	23.3%	23.5%	23.7%	24.0%	24.0%
VRC December 20, 2007 Analysis	\$ 1,160.3	\$ 1,193.3	\$ 1,236.8	\$ 1,282.1	\$ 1,298.6	\$ 1,348.8	\$ 1,382.7
OCF Margin	23.9%	24.2%	24.7%	24.9%	24.8%	25.1%	25.1%

The differences between Tribune management's revenue and EBITDA growth rates for the Publishing Segment (and the resulting nominal estimations related thereto) and the growth rates applied by VRC (and resulting estimations), are shown below:

PUBLISHING SEGMENT PROJECTIONS COMPARISON (\$mm)							
Revenue - Base Case	FY 2007P	FY 2008E	FY 2009E	FY 2010E	FY 2011E	FY 2012E	FY 2013E
Tribune October 28, 2007 Analysis	\$ 3,692.6	\$ 3,679.9	\$ 3,752.0	\$ 3,840.2	\$ 3,927.6	\$ 4,019.3	\$ 4,113.1
Growth Rate	-6.6%	-0.3%	2.0%	2.4%	2.3%	2.3%	2.3%
VRC October 29, 2007 Analysis	\$ 3,692.6	\$ 3,599.4	\$ 3,596.7	\$ 3,611.0	\$ 3,637.3	\$ 3,668.9	\$ 3,700.7
Growth Rate	-6.6%	-2.5%	-0.1%	0.4%	0.7%	0.9%	0.9%
VRC December 20, 2007 Analysis	\$ 3,692.6	\$ 3,679.9	\$ 3,752.0	\$ 3,840.2	\$ 3,927.6	\$ 4,019.3	\$ 4,113.1
Growth Rate	-6.6%	-0.3%	2.0%	2.4%	2.3%	2.3%	2.3%
Operating Cash Flow - Base Case	FY 2007P	FY 2008E	FY 2009E	FY 2010E	FY 2011E	FY 2012E	FY 2013E
Tribune October 28, 2007 Analysis	\$ 818.2	\$ 786.1	\$ 814.2	\$ 844.2	\$ 874.8	\$ 906.3	\$ 927.5
OCF Margin	22.2%	21.4%	21.7%	22.0%	22.3%	22.5%	22.5%
VRC October 29, 2007 Analysis	\$ 818.2	\$ 744.9	\$ 754.7	\$ 766.4	\$ 786.1	\$ 803.8	\$ 810.8
OCF Margin	22.2%	20.7%	21.0%	21.2%	21.6%	21.9%	21.9%
VRC December 20, 2007 Analysis	\$ 818.2	\$ 786.1	\$ 814.2	\$ 844.2	\$ 874.8	\$ 906.3	\$ 927.5
OCF Margin	22.2%	21.4%	21.7%	22.0%	22.3%	22.5%	22.5%

A comparison of Tribune management's and VRC's Publishing Segment EBITDA projections indicates that the lower EBITDA projected by VRC is explained not only by

reductions in projected revenues but also by modest reductions in EBITDA margin, which appears to average approximately 60 to 80 basis points lower in VRC's estimates.²³⁰⁵

The following table similarly compares Tribune management's and VRC's rates and nominal estimates of revenue and EBITDA projections for the Broadcasting Segment:

BROADCASTING SEGMENT PROJECTIONS COMPARISON (\$mm)							
Revenue - Base Case	FY 2007P	FY 2008E	FY 2009E	FY 2010E	FY 2011E	FY 2012E	FY 2013E
Tribune October 28, 2007 Analysis	\$ 1,164.1	\$ 1,256.5	\$ 1,264.1	\$ 1,306.6	\$ 1,317.2	\$ 1,351.8	\$ 1,387.4
Growth Rate	-4.7%	7.9%	0.6%	3.4%	0.8%	2.6%	2.6%
VRC October 29, 2007 Analysis	\$ 1,164.1	\$ 1,231.6	\$ 1,259.3	\$ 1,287.7	\$ 1,316.7	\$ 1,346.3	\$ 1,376.6
Growth Rate	-4.7%	5.8%	2.2%	2.3%	2.3%	2.2%	2.3%
VRC December 20, 2007 Analysis	\$ 1,164.1	\$ 1,256.5	\$ 1,264.1	\$ 1,306.6	\$ 1,317.2	\$ 1,351.8	\$ 1,387.4
Growth Rate	-4.7%	7.9%	0.6%	3.4%	0.8%	2.6%	2.6%
Operating Cash Flow - Base Case	FY 2007P	FY 2008E	FY 2009E	FY 2010E	FY 2011E	FY 2012E	FY 2013E
Tribune October 28, 2007 Analysis	\$ 383.7	\$ 448.5	\$ 463.9	\$ 479.3	\$ 465.0	\$ 483.8	\$ 496.5
OCF Margin	33.0%	35.7%	36.7%	36.7%	35.3%	35.8%	35.8%
VRC October 29, 2007 Analysis	\$ 383.7	\$ 402.7	\$ 418.1	\$ 427.5	\$ 427.9	\$ 440.2	\$ 450.1
OCF Margin	33.0%	32.7%	33.2%	33.2%	32.5%	32.7%	32.7%
VRC December 20, 2007 Analysis	\$ 383.7	\$ 448.5	\$ 463.9	\$ 479.3	\$ 465.0	\$ 483.8	\$ 496.5
OCF Margin	33.0%	35.7%	36.7%	36.7%	35.3%	35.8%	35.8%

Importantly, these tables compare Tribune's "base" case projections to VRC's "base" case, so there is no apparent basis to assert that the difference between VRC's and Tribune's projections is explained by comparing a "base" case on the one hand to a "downside" or more pessimistic case on the other. In fact, VRC's internal memoranda, prepared for all of the businesses within each of the Publishing Segment²³⁰⁶ and the Broadcasting Segment, explicitly

²³⁰⁵ VRC's October 29, 2007 memoranda apparently do not discuss Publishing Segment expenses (and therefore margins) despite having a section devoted to projected Broadcasting Segment expense growth and despite clear evidence that VRC downwardly adjusted Tribune's Publishing Segment margins in establishing VRC's projected operating cash flows. It is possible that VRC downwardly adjusted the Publishing Segment's overall EBITDA margin to account for VRC's lower estimate of Tribune interactive revenue. A reduction in interactive revenue would result in a reduction in overall publishing EBITDA margin because of the elimination of interactive's EBITDA contribution at approximately 40% of its revenue, which is much higher than the EBITDA margin of the Publishing Segment's without the interactive unit. See Ex. 1004 (Mednik E-Mail, dated October 31, 2007).

²³⁰⁶ The segments addressed by VRC memoranda include print advertising segments "Retail," "National," and "Classified," as well as the Publishing Segment's "Circulation" and "Interactive" business units. The only unit

discuss Tribune's projected growth rates in terms of "reasonableness" and are prepared for "base" case as well as "downside" case scenarios.²³⁰⁷ Moreover, the identified differences between Tribune's and VRC's growth rates are the result of VRC-proposed alternative growth rates based on VRC's independent assessment of Tribune data as well as third-party analyst benchmarks and expectations, among other sources of relevant information (including information obtained at a two-day meeting with Tribune management in September 2007).²³⁰⁸

It is clear from the comparison of Publishing Segment projected revenue and operating cash flow that the gap between Tribune's and VRC's projections grows over time based on the differences in growth rates applied. These differences result in significant disparity in the present values of the interim cash flows as well as the respective present values of Tribune's terminal period value. In fact, the difference in the final year (2013) of the interim period projections of Publishing Segment operating cash flow (approximately \$116.7 million of the \$163 million difference in consolidated EBITDA) explains the majority of the overall difference in present value between the DCF indications of terminal period value informed by Tribune's projections and those informed by VRC's projections. Moreover, the difference in projected final year Publishing Segment EBITDA explains approximately \$625.1 million of the \$873.4 million difference (71.6%) between the two terminal period valuations at the mid-point and approximately 50% of the overall \$1.240 billion difference.

not specifically addressed in materials reviewed to date is the Publishing Segment's "Other" unit, that includes disparate business units like contract delivery and printing, Tribune Media and Tribune's direct mail business, among others. *See id.*

²³⁰⁷ *Id.* at VRC0034756-85.

²³⁰⁸ Moreover, VRC actually upwardly revised at least one Tribune growth rate projection, apparently because it believed management's projection to be too conservative. VRC projected a negative growth rate of 1.3% for 2009 national advertising revenue. *Id.* at VRC0034777. By contrast, Tribune management's projected growth rate was negative 2.4%.

It also appears that the different assumptions applied to the interactive business by Tribune management and VRC accounts for a substantial portion of the difference in resulting enterprise values. To generally gauge the impact that management's and VRC's differing treatment of the interactive business had on their respective valuations,²³⁰⁹ the Examiner applied a 40% OCF margin to the difference in revenues of approximately \$191.9 million projected by Tribune and VRC for the interactive business in 2012:

INTERACTIVE ASSUMPTION COMPARISON (\$mm)						
Revenue Assumptions - Base Case	FY 2007P	FY 2008E	FY 2009E	FY 2010E	FY 2011E	FY 2012E
Tribune October 28, 2007 Analysis	\$ 262.0	\$ 318.0	\$ 406.3	\$ 507.9	\$ 603.8	\$ 712.5
Growth Rate	15.9%	21.4%	27.8%	25.0%	18.9%	18.0%
VRC October 29, 2007 Analysis	\$ 262.0	\$ 308.9	\$ 358.0	\$ 407.7	\$ 460.7	\$ 520.6
Growth Rate	15.9%	17.9%	15.9%	13.9%	13.0%	13.0%
VRC December 20, 2007 Analysis	\$ 262.0	\$ 318.0	\$ 406.3	\$ 507.9	\$ 603.8	\$ 712.5
Growth Rate	15.9%	21.4%	27.8%	25.0%	18.9%	18.0%

From this comparison, the significance of the interactive business as an element of the Publishing Segment's value becomes apparent. The interactive business' OCF contribution of \$76.8 million explains approximately 75% of the total \$102.5 million difference between the two projection models in 2012. This difference is demonstrated in the chart below:

²³⁰⁹ Unfortunately, because VRC stopped projecting revenues and margins for the specific units of the Publishing Segments at 2012, and forecasted aggregate Publishing Segment revenue and margin in 2013 based on a "blended" 2012 revenue growth rate and observed 2012 EBITDA margin, calculating the specific impact that the interactive business had on the terminal value is extremely difficult. Neither management's projections nor the DCF models used by VRC contain sufficient detail within the computations to establish the interactive business' EBITDA margin. However, based on profitability projections contained in a summary of projected Tribune's interactive business operating performance, the interactive business was forecast to contribute to operating cash flow at a substantial 40% OCF margin. Ex. 956 (Tribune Interactive 2006-2012 Projections).

INTERACTIVE V. PUBLISHING EBITDA CONTRIBUTION (\$ mm)				
		<u>Interactive</u>	<u>Publishing</u>	
		<u>FY2012E</u>	<u>FY2012E</u>	
Revenues				
Tribune October 28, 2007 Analysis (1)		\$ 712.5	\$ 4,019.3	
VRC October 29, 2007 Analysis (2)		\$ 520.6	\$ 3,668.9	
Difference		<u>\$ 191.9</u>	<u>\$ 350.4</u>	
EBITDA				
Tribune October 28, 2007 Analysis (1), (3)	@ 40%	\$ 285.0	\$ 906.3	
VRC October 29, 2007 Analysis (2), (3)	@ 40%	\$ 208.2	\$ 803.8	
Difference		<u>\$ 76.8</u>	<u>\$ 102.5</u>	74.9%
(1) Ex. 1004 at VRC0034787 (Mednik E-Mail, dated October 31, 2007). (2) Ex. 1004 at VRC0034798 (Mednik E-Mail, dated October 31, 2007). (3) EBITDA for Interactive under both Tribune and VRC analyses has been assumed to be a 40% EBITDA Margin. EBITDA Figures presented under Publishing for both Tribune and VRC are as seen in Ex. 1004 at VRC0034787 and VRC0034798 (Mednik E-Mail, dated October 31, 2007).				

The differences between Tribune management's and VRC's forecasts of projected annual revenue for the interactive unit are substantial. Included in VRC's October 29, 2007 memoranda is a write-up of "Interactive Assumptions" apparently authored by VRC's Mose Rucker. In that document, Mr. Rucker makes a series of observations in arriving at his downward adjustment of the growth rates that management had applied to projected interactive revenue to forecast performance of the interactive unit over the period 2008—2012.²³¹⁰ Negative factors considered by Mr. Rucker included the competitiveness of the interactive space, Oppenheimer's and Credit Suisse's estimated growth for the interactive business generally, and the specific decline in interactive growth experienced by Tribune in 2007.²³¹¹

²³¹⁰ Ex. 1004 at VRC0034784-85 (Mednik E-Mail, dated October 31, 2007).

²³¹¹ *Id.* at VRC0034784.

On the other hand, Mr. Rucker acknowledged that the amount of Tribune's planned investment was a mitigating factor as was management's positive view of its new Metro Mix offering.²³¹² In the end, apparently based on the fact that Tribune management's projected growth rates greatly exceeded "industry anticipated growth rates," among other factors, Mr. Rucker downwardly revised management's projections.²³¹³

The VRC October 29, 2007 memoranda also contain, among other things, several memoranda from Mr. Rucker memorializing observations and analysis of revenue forecasted for all units of Tribune's Publishing Segment with the exception, as mentioned earlier, of the "Other" category of the Publishing Segment's businesses. Revenue projections for Tribune print advertising segments, "National," "Retail," and "Classified" are each addressed in separate memoranda, as are the "Circulation" and interactive business segments.²³¹⁴ Each memorandum includes observations made by management, VRC summaries of analyst research, and the results of VRC's own analysis of Tribune's historical performance.²³¹⁵ Each memorandum also contains VRC's conclusions as to adjustments to revenue growth rates used by Tribune's management to project base case, downside, and "most stringent" case revenue performance for the Publishing Segment.²³¹⁶

The following tables show the disparities (and similarities) between Tribune management's revenue projections and VRC's adjusted forecasts for the Publishing Segment. The tables also provide the projected performance as contained in VRC's December 20, 2007 model:

²³¹² *Id.* at VRC0034785.

²³¹³ *Id.*

²³¹⁴ *Id.* at VRC0034772-85.

²³¹⁵ *Id.*

²³¹⁶ *Id.*

NATIONAL PUBLISHING ASSUMPTION COMPARISON (\$mm)						
Revenue Assumptions - Base Case	FY 2007P	FY 2008E	FY 2009E	FY 2010E	FY 2011E	FY 2012E
Tribune October 28, 2007 Analysis	\$ 661.7	\$ 651.6	\$ 636.1	\$ 620.1	\$ 611.1	\$ 598.7
Growth Rate	-5.0%	-1.5%	-2.4%	-2.5%	-1.4%	-2.0%
VRC October 29, 2007 Analysis	\$ 661.7	\$ 648.4	\$ 639.7	\$ 623.6	\$ 614.6	\$ 602.1
Growth Rate	-5.0%	-2.0%	-1.3%	-2.5%	-1.4%	-2.0%
VRC December 20, 2007 Analysis	\$ 661.7	\$ 651.6	\$ 636.1	\$ 620.1	\$ 611.1	\$ 598.7
Growth Rate	-5.0%	-1.5%	-2.4%	-2.5%	-1.4%	-2.0%

RETAIL PUBLISHING ASSUMPTION COMPARISON (\$mm)						
Revenue Assumptions - Base Case	FY 2007P	FY 2008E	FY 2009E	FY 2010E	FY 2011E	FY 2012E
Tribune October 28, 2007 Analysis	\$ 1,231.0	\$ 1,231.5	\$ 1,237.2	\$ 1,242.5	\$ 1,255.5	\$ 1,267.4
Growth Rate	-3.9%	0.0%	0.5%	0.4%	1.0%	0.9%
VRC October 29, 2007 Analysis	\$ 1,231.0	\$ 1,214.4	\$ 1,202.3	\$ 1,199.3	\$ 1,196.3	\$ 1,193.3
Growth Rate	-3.9%	-1.4%	-1.0%	-0.2%	-0.3%	-0.2%
VRC December 20, 2007 Analysis	\$ 1,231.0	\$ 1,231.5	\$ 1,237.2	\$ 1,242.5	\$ 1,255.5	\$ 1,267.4
Growth Rate	-3.9%	0.0%	0.5%	0.4%	1.0%	0.9%

CLASSIFIED PUBLISHING ASSUMPTION COMPARISON (\$mm)						
Revenue Assumptions - Base Case	FY 2007P	FY 2008E	FY 2009E	FY 2010E	FY 2011E	FY 2012E
Tribune October 28, 2007 Analysis	\$ 739.3	\$ 650.5	\$ 637.2	\$ 625.1	\$ 604.5	\$ 579.8
Growth Rate	-21.2%	-12.0%	-2.0%	-1.9%	-3.3%	-4.1%
VRC October 29, 2007 Analysis	\$ 739.3	\$ 621.0	\$ 591.5	\$ 575.2	\$ 559.4	\$ 544.0
Growth Rate	-21.2%	-16.0%	-4.7%	-2.8%	-2.7%	-2.8%
VRC December 20, 2007 Analysis	\$ 739.3	\$ 650.5	\$ 637.2	\$ 625.1	\$ 604.5	\$ 579.8
Growth Rate	-21.2%	-12.0%	-2.0%	-1.9%	-3.3%	-4.1%

CIRCULATION PUBLISHING ASSUMPTION COMPARISON (\$mm)						
Revenue Assumptions - Base Case	FY 2007P	FY 2008E	FY 2009E	FY 2010E	FY 2011E	FY 2012E
Tribune October 28, 2007 Analysis	\$ 528.1	\$ 511.1	\$ 495.4	\$ 479.9	\$ 464.6	\$ 449.8
Growth Rate	-5.2%	-3.2%	-3.1%	-3.1%	-3.2%	-3.2%
VRC October 29, 2007 Analysis	\$ 528.1	\$ 509.1	\$ 492.8	\$ 477.1	\$ 461.8	\$ 447.1
Growth Rate	-5.2%	-3.6%	-3.2%	-3.2%	-3.2%	-3.2%
VRC December 20, 2007 Analysis	\$ 528.1	\$ 511.1	\$ 495.4	\$ 479.9	\$ 464.6	\$ 449.8
Growth Rate	-5.2%	-3.2%	-3.1%	-3.1%	-3.2%	-3.2%

OTHER PUBLISHING ASSUMPTION COMPARISON (\$mm)						
Revenue Assumptions - Base Case	FY 2007P	FY 2008E	FY 2009E	FY 2010E	FY 2011E	FY 2012E
Tribune October 28, 2007 Analysis	\$ 270.6	\$ 317.1	\$ 339.7	\$ 364.7	\$ 388.1	\$ 411.2
Growth Rate	6.8%	17.2%	7.1%	7.3%	6.4%	6.0%
VRC October 29, 2007 Analysis	\$ 270.6	\$ 297.6	\$ 312.5	\$ 328.1	\$ 344.5	\$ 361.8
Growth Rate	6.8%	10.0%	5.0%	5.0%	5.0%	5.0%
VRC December 20, 2007 Analysis	\$ 270.6	\$ 317.1	\$ 339.7	\$ 364.7	\$ 388.1	\$ 411.2
Growth Rate	6.8%	17.2%	7.1%	7.3%	6.4%	6.0%

There are also several VRC memoranda authored by Leonid Mednik critiquing Tribune management's projections of revenue under "base," "downside," and "recession" cases for the Broadcasting Segment.²³¹⁷ The difference between management's and VRC's projected revenues for the Broadcasting Segment is partially obscured by the differing projection approaches taken by each. For purposes of its projection of Broadcasting Segment revenues for the interim periods 2009 through 2012, VRC used a "smoothed" estimate of growth based on an average annual growth rate to approximate the results otherwise obtained through application of a "stair step" form of projection.²³¹⁸ In contrast, the stair step projection approach used by Tribune management arguably better and more accurately captures the timing of expected cyclicalities of revenue performance due to the alternating two year impact of presidential and midterm election years which boost expected revenue as a result of extra advertising spending associated with political campaigns. Application of the smoothed projection rate, however, is not a fatal simplification of the stair step projection, since projections based on the uniform growth rate results in overestimation one year and underestimation the next, all other things being equal.

²³¹⁷ *Id.* at VRC0034756-64.

²³¹⁸ *Id.*

BROADCASTING SEGMENT PROJECTIONS COMPARISON (\$mm)							
Revenue Assumptions - Base Case	FY 2007P	FY 2008E	FY 2009E	FY 2010E	FY 2011E	FY 2012E	FY 2013E
Tribune October 28, 2007 Analysis	\$ 1,164.1	\$ 1,256.5	\$ 1,264.1	\$ 1,306.6	\$ 1,317.2	\$ 1,351.8	\$ 1,387.4
Growth Rate	-4.7%	7.9%	0.6%	3.4%	0.8%	2.6%	2.6%
VRC October 29, 2007 Analysis	\$ 1,164.1	\$ 1,231.6	\$ 1,259.3	\$ 1,287.7	\$ 1,316.7	\$ 1,346.3	\$ 1,376.6
Growth Rate	-4.7%	5.8%	2.2%	2.3%	2.3%	2.2%	2.3%
Difference	\$ 0.0	(\$ 24.9)	(\$ 4.8)	(\$ 18.9)	(\$ 0.5)	(\$ 5.5)	(\$ 10.8)
Nominal Margin Percentage Difference	0.0%	-2.1%	1.6%	-1.1%	1.4%	-0.4%	-0.4%
% Difference	0.0%	-2.0%	-0.4%	-1.4%	0.0%	-0.4%	-0.8%
Operating Cash Flow - Base Case	FY 2007P	FY 2008E	FY 2009E	FY 2010E	FY 2011E	FY 2012E	FY 2013E
Tribune October 28, 2007 Analysis	\$ 383.7	\$ 448.5	\$ 463.9	\$ 479.3	\$ 465.0	\$ 483.8	\$ 496.5
OCF Margin	33.0%	35.7%	36.7%	36.7%	35.3%	35.8%	35.8%
VRC October 29, 2007 Analysis	\$ 383.7	\$ 402.7	\$ 418.1	\$ 427.5	\$ 427.9	\$ 440.2	\$ 450.1
OCF Margin	33.0%	32.7%	33.2%	33.2%	32.5%	32.7%	32.7%
Difference	\$ 0.0	(\$ 45.8)	(\$ 45.8)	(\$ 51.8)	(\$ 37.1)	(\$ 43.6)	(\$ 46.4)
Nominal Margin Percentage Difference	0.0%	-3.0%	-3.5%	-3.5%	-2.8%	-3.1%	-3.1%
% Difference	0.0%	-10.2%	-9.9%	-10.8%	-8.0%	-9.0%	-9.3%

In the case of the Broadcasting Segment, VRC's significant departure from Tribune's EBITDA projections principally results not from differences in the respective projections of revenue, but rather from VRC's adjustments to operating expenses based on divergent assumptions about expense margins and the rate of growth of Broadcasting Segment expenses. The difference in operating cash flow margin ranges between 300 and 350 basis points. Such differences in OCF margin result in nominal OCF differences ranging between approximately 8.0% and 10.8% and result, for example, in a year-end 2013 difference in projected OCF of approximately \$46.4 million.

Also among VRC's October 29, 2007 internal memoranda is a write-up of "Tribune Base Case—Broadcasting Expense Assumptions" authored by VRC's Shakespeare James.²³¹⁹ In one of his memoranda, Mr. James explicitly acknowledged planned cost savings (and related Broadcasting Segment EBITDA margin) associated with the sale of the low-margin Chicago Cubs and Tribune entertainment units as well as management's planned effort to reduce costs by

²³¹⁹ *Id.* at VRC0034765-68.

\$200 million during 2007 and 2008.²³²⁰ As with other assumptions made by Tribune management, however, Mr. James appears to have considered Tribune's claims of improved performance within the context of Tribune's historical performance and other pertinent factors and determined that Tribune's projected margin improvements were unreasonable. Mr. James concluded:²³²¹

VRC has assumed a margin at the midpoint of the base case and the historical 10 year average to conservatively reflect achieving only part of the planned \$200 million dollars in cost savings that the Company hopes to achieve in 2007 and 2008. VRC has derived an expense ratio of 65.2% for 2008, 64.7% for 2009, 63.7% for 2010, 65.4% for 2011 and 65.1% for 2012.

Most notably, as is discussed elsewhere herein, the revisions that VRC made to Tribune's operating cash flow projections, as memorialized in its internal October 29, 2007 memoranda, appear to be one of only two times that VRC adjusted Tribune's projections.²³²² The projections underlying VRC's models both before and after this date adhere to the amounts presented as Tribune's projections in every other iteration of VRC's models.

The above-discussed memoranda demonstrate that VRC performed detailed analyses of management's October 2007 projections and made multiple (principally) downward adjustments. Yet, in the end, VRC inexplicably ignored *all* of the conclusions it reached in these memoranda and proceeded to use the October 2007 projections *without change* in its Step Two solvency opinion.²³²³ The critiques contained in the memoranda are difficult to reconcile with VRC's

²³²⁰ *Id.* at VRC0034765.

²³²¹ *Id.* at VRC0034768.

²³²² The other time was in connection with VRC's determination of an enterprise value in connection with its December 20, 2007 opinion in which VRC work papers reflect that VRC considered alternative revenue and profitability expectations. Ex. 913 at VRC0019373-74 (VRC Draft Model, dated December 20, 2007). However, as with the October 29, 2007 revisions that VRC considered, VRC ignored these numbers as well.

²³²³ The Examiner did not have the opportunity to evaluate these memoranda before his interview with Mr. Rucker and Mr. Browning or senior Tribune financial management and, accordingly, this is an area that may warrant further investigation.

ultimate conclusion that management's projections were reasonable and should not be adjusted.²³²⁴ The Examiner finds it troubling that VRC performed comprehensive analyses of management's projections (much of which the Examiner finds astute), reached substantial downward valuation conclusions based on that analysis, and yet proceeded to use the October 2007 projections without adjustment, purporting to rely on Tribune's representation letter concerning the reasonableness of the October 2007 projections.

As a result, because both VRC's Step Two valuation analysis (in part)²³²⁵ and its cash flow tests (in full) were ultimately predicated on management's October 2007 projections containing the flaws discussed above (many of which were identified but ultimately ignored by

²³²⁴ When interviewed by the Examiner, Mr. Browning testified as follows:

Q: At any time throughout your work for Tribune Company and given what you have learned about Tribune to date, do you have reason to believe that Tribune's projections that were provided to VRC in connection with VRC's work in issuing both solvency opinions were unreasonable at the time?

A: I believe at the time that—and, frankly, I still believe this now, is that management was giving us what they believed were their forecasts what they believed could be achieved. I don't believe there was any attempt -- at least in my opinion—and, you know, we are paid to look at management or look at companies that give us that to discern whether or not these things are right or not. And discern if somebody is telling us a story or not. And at the time, I believe that they thought those forecasts were achievable and I do believe that they thought they were conservative. But—and so—and so no I think they were reasonable.

Examiner's Sworn Interview of Mose Rucker and Bryan Browning, June 30, 2010, at 330:5-331:7.

Earlier in the interview, Mr. Rucker echoed similar sentiments:

Q: What do you recall, if anything, about the discussions you had with Tribune management in relation to the change in revenue growth from .5 percent at Step 1 to 2.4 percent at Step 2?

A: The general -- my general recollection was because things were in a slight decline now or they were declining now, that management would anticipate that in the outer years, that as the economy recovered and things recovered, that there would be higher growth rates.

Q: And did VRC believe that that was a reasonable assumption?

A: We concluded that it was reasonable.

Id. at 162:3-21.

²³²⁵ Although VRC relied on management's projections, it also developed its own cohort company multiples to which VRC then applied Tribune metrics (e.g., EBITDA) in calculating operating asset values.

VRC, the Examiner concludes that VRC's valuation conclusions were improperly upwardly biased.²³²⁶

(3) VRC's Step Two Solvency Analysis Contained Several Other Significant Errors.

In addition to the preceding problems, VRC's Step Two solvency opinion suffers from numerous other problems. In particular, the Examiner finds that:

- VRC used discount rates in its DCF analysis that did not properly reflect the risk of achieving forecasted future cash flows, particularly regarding assumptions for growth in Tribune's interactive business.²³²⁷

²³²⁶ To compound matters, whereas VRC used years 2007 through 2012 from the February 2007 projections to determine Tribune's interim period value for its Step One solvency opinion (after which VRC added a terminal value based on the application of an exit multiple), VRC used year 2008 through 2017 projections (ten years) for purposes of determining Tribune's interim period value in its Step Two solvency opinion. See Ex. 721 (Tribune Company Model, dated November 21, 2007). The Examiner finds that this change in methodology was unreasonable because Tribune's growth projections during this ten-year time horizon were inconsistent with the reasonable expectations at the time. By incorporating an additional five years of projected operating performance (for the period from 2013 through 2017) into its DCF valuation model, VRC adopted a consolidated Tribune growth rate of approximately 2.41% for five years, at which point it estimated a terminal value for Tribune, using perpetuity growth rates ranging from 0.38% to 2.13%. As noted, according to VRC's December 20, 2007 Step Two solvency opinion, the projected cash flows for years 2013 through 2017 were extrapolated from the five-year projection (2008 through 2012) provided to VRC by Tribune management (and referred to by VRC as the "Base Case Forecast") by applying the "revenue and operating cash flow growth rates for the fifth year of the Base Case Forecast and underlying assumptions as used in developing the Base Case Forecast (the 'Management Five-Year Extrapolation')." See Ex. 728 at TRB0294013 (VRC Step Two Solvency Opinion, dated December 20, 2007). Had VRC simply calculated a terminal value after the first five years of projections and used the same implied mid-point perpetuity growth rate as it actually did in its December valuation, the value of Tribune based on a DCF approach would have been approximately \$612.5 million less than the \$10.210 billion it actually calculated (based on its mid-point terminal value estimate), as described previously.

²³²⁷ The Examiner notes that VRC applied the same range of discount rates in performing its December 2007 evaluation as used in its May 2007 evaluations, despite the recognition that Tribune had performed unfavorably to plan for virtually every month in 2007, except September. See Ex. 271 at VRC0051430 (Mednik E-Mail, dated May 4, 2007); Ex. 240 (Brown Book for Period 1, 2007); Ex. 241 (Brown Book for Period 2, 2007); Ex. 915 (Brown Book for Period 3, 2007); Ex. 78 (Brown Book for Period 4, 2007); Ex. 635 (Brown Book for Period 5, 2007); Ex. 636 (Brown Book for Period 6, 2007); Ex. 637 (Brown Book for Period 7, 2007); Ex. 638 (Brown Book for Period 8, 2007); Ex. 639 (Brown Book for Period 9, 2007); Ex. 640 (Brown Book for Period 10, 2007); Ex. 641 (Brown Book for Period 11, 2007); Ex. 642 (Brown Book for Period 12, 2007). Based on an evaluation of historical and projected Tribune interactive revenue and operational performance, and as confirmed by Timothy Landon and Harry Amsden in their respective interviews with the Examiner, Tribune's interactive business was a higher growth, higher risk business than any of its counterpart businesses in the Publishing Segment and the Broadcasting Segment. Examiner's Interview of Timothy Landon, June 22, 2010; Examiner's Interview of Harry Amsden, July 2, 2010. Mr. Amsden indicated that the projected cash flow performance of the interactive business was informed by expectations regarding product development and

• VRC improperly gave equal weighting to values derived using a multiples-based approach and a DCF approach, because the DCF derived value is based on a specific forecast of Tribune's cash flow generating characteristics and attributes (including, for example, significant geographic concentration on Florida and California), and cohort companies identified by VRC as comparable to Tribune can be differentiated from Tribune both qualitatively and quantitatively.²³²⁸

acquisitions that had not, at the time of the projections, been undertaken or completed. Examiner's Interview of Harry Amsden, July 2, 2010. Mr. Landon indicated that an appropriate discount rate to apply to such projected cash flows would be "double digit." Examiner's Interview of Timothy Landon, June 22, 2010. Mr. Amsden also spoke of the projections related to internal development and acquisitions as "speculative." Examiner's Interview of Harry Amsden, July 2, 2010. Accordingly, the Examiner finds that the cash flow projections related to Tribune's interactive business require application of a discount rate considerably higher than the rate otherwise applicable to the non-Interactive portion of the legacy Publishing Segment and Tribune's Broadcasting Segment.

In developing its equity cost for purposes of determining an appropriate discount rate for its DCF, VRC observed capital structure information for selected Tribune cohorts. In an effort to assess the extent to which the cohorts' betas might reflect risk associated with internet-based operations similar in nature to Tribune's interactive business, the Examiner reviewed available information for each company comprising the group VRC selected. The group was comprised of E.W. Scripps Co., McClatchy Co. Holding, The New York Times Co., Belo Corp., and Media General, Inc. Of the three companies for which interactive revenues could be ascertained, only E.W. Scripps Co. reported interactive revenues at a level commensurate with Tribune (E.W. Scripps Co. \$271 million v. Tribune \$265 million). The other two companies, McClatchy Co. Holding and Media General Inc., reported modest revenues from interactive activity of approximately \$47 million and \$21 million respectively, (representing 2.8% and 2.2% of their total revenues, respectively). The New York Times Co. appears to have considerable interactive business exposure but the revenues associated therewith were not ascertainable for 2006. In its SEC filings, Belo Corp. indicates an interactive component to its business, but revenues associated therewith were likewise not ascertainable.

Of note is the fact that E.W. Scripps Co. and The New York Times Co., two cohorts apparently with substantial exposure to interactive, exhibited among the lowest betas observed by VRC (E.W. Scripps Co.—Raw: .51 and Adjusted: .70; New York Times Co.—Raw: .81 and Adjusted: .89). Ex. 742 at VRC0063430 (VRC Preliminary Solvency Analysis, dated November 30, 2007). It would appear unlikely therefore that the risk associated with the interactive businesses within these companies was driving their risk profiles in any significant manner. This may be a result of the relative maturity of the interactive components of these companies, or differing expectations regarding growth and profitability within their respective businesses.

It is important to recall that the projections developed for Tribune's interactive business, although premised on the existing business, also based a substantial portion (approximately 40% by 2012) of projected future operating cash flows on the realization of then-nascent, potential start-up projects and unidentified acquisitions. Ex. 956 at VRC0026119; Examiner's Interview of Harry Amsden, July 16, 2010. In this way, Tribune's interactive business is distinguishable.

²³²⁸ For example, many "comparables" perform better than Tribune across important financial metrics such as growth rates and profitability margins or are qualitatively distinguishable on the basis of service and product offerings.

Based on the weighting used by VRC in a version of their valuation summary that was developed for and included in a May 9, 2007 *draft* presentation, the weighting of the approaches was as follows:

VALUATION METHOD

Comparable Companies (25%)
 Comparable Transactions (10%)
 Discounted Cash Flow (40%)
 Sum of Business Segments (25%)

Ex. 1117 at VRC 0038534 (Draft of VRC Solvency Opinion Analysis, dated May 9, 2007).

When these "preliminary" weightings are applied to the valuation indications generated for VRC's December 20, 2007 solvency opinion, the average operating enterprise value is computed as follows:

VRC SUMMARY DECEMBER 20, 2007 (at original weighting)			
Valuation Method	Valuation Summary		
	Low	Mid	High
Comparable Companies (25%)	\$ 9,248.1	\$ 9,865.3	\$ 10,482.5
Comparable Transactions (10%)	\$ 10,782.0	\$ 11,081.5	\$ 11,381.0
Discounted Cash Flow (40%)	\$ 9,525.6	\$ 10,234.4	\$ 10,943.2
Sum of Business Segments (25%)	\$ 9,316.8	\$ 9,909.7	\$ 10,502.5
Average Operating Enterprise Value	\$ 9,529.7	\$ 10,145.7	\$ 10,761.6
VRC December 20 Value (Based on Equal Weighting)	\$ 9,718.1	\$ 10,272.7	\$ 10,827.3

A comparison of the December 2007 average operating enterprise values derived under the original and actual December 2007 weightings indicates differences under each of the ranged categories, from low to high. Although the differences in average operating enterprise value are not large, the significance of the differences, when considered in the context of concluded *equity* value or solvency, become more apparent. See Ex. 917 (VRC Solvency Model):

CHANGE IN CONCLUDED RANGE USING EQUAL v. ORIGINAL WEIGHTING			
Valuation Method	Valuation Summary		
	Low	Mid	High
Average Operating Enterprise Value (Revised)	\$ 9,718.1	\$ 10,272.7	\$ 10,827.3
Average Operating Enterprise Value (Original)	\$ 9,529.7	\$ 10,145.7	\$ 10,761.6
Difference Due to Changed Weighting	\$ 188.4	\$ 127.0	\$ 65.7
Concluded Equity Value (Original)	\$ 743.2	\$ 1,650.2	\$ 2,557.1
Concluded Equity Value (Revised)	\$ 931.6	\$ 1,777.2	\$ 2,622.8
% Increase in Concluded Equity Range	25.4%	7.7%	2.6%

When asked by the Examiner whether for purposes of solvency opinions he equally weighted or weighted differentially the value indications from his valuation methodologies, Mr. Browning indicated that he had "seen some that are weighted and some that are not. . . ." Examiner's Sworn Interview of Mose Rucker and Bryan Browning, June 30, 2010, at 78:7-78:10. But when asked whether one approach was more typical than the other, Mr. Browning answered that "it is more typical to average them, to look at them equally." Examiner's Sworn Interview of Mose Rucker and Bryan Browning, June 30, 2010, at 78:17-78:19. When asked the same question, Mr. Rucker said, "I don't think I've ever done a solvency opinion . . . where you haven't looked at all evaluation methodologies equally to determine a range of values." Examiner's Sworn Interview of Mose

• VRC appears to have failed to reasonably calculate comparable company trading multiples by adjusting the comparable companies' total asset value, when appropriate, to remove the fair market value of each comparable company's equity investments from its

Rucker and Bryan Browning, June 30, 2010, at 78:22-79:3. The authors of a leading treatise on business valuation note:

The final value opinion regarding the subject business enterprise or business interest should be derived from the analyst's reasoning and judgment of all the factors considered and from the impartial weighting of all the market-derived valuation evidence.

Shannon P. Pratt, Robert F. Reilly, and Robert P. Schweihs, *VALUING A BUSINESS: THE ANALYSIS AND APPRAISAL OF CLOSELY HELD COMPANIES* at 444 (4th ed. 2000).

When asked during his December 4, 2009 Rule 2004 examination about the circumstances in which one valuation method might be weighed more heavily than others, Mr. Browning testified, "[G]enerally speaking, if you have more confidence in one approach than the other, you may weight it heavier." Ex. 262 at 70:14-17 (Rule 2004 Examination of Bryan Browning, December 4, 2009). Later in his examination, Mr. Browning recalled the impetus for the change in weightings to the arithmetic averaging of results from the four valuation methods. Speaking about a discussion with VRC's "opinion committee about the decision to weight the results equally," Mr. Browning testified:

Q: What do you remember about the discussion?

A: That this isn't an appraisal from the standpoint of where you—you weight and indication and that's the point indication. It's really a range of values that you are looking at, so it's better to look at that range without putting any kind of constraints on or—if you will.

Id. at 100:10-18.

When Mr. Rucker was asked at his December 3, 2009 Rule 2004 examination why he thought it would be inappropriate to overweight the discounted cash flow indication of value in the case of Tribune's solvency, he responded:

The way we have traditionally done our solvency opinions in the past and the way we do it now, we look at each indication of value and we treat each indication of value equally. And I would say in general the industry as a whole looks at each indication of value equally.

Ex. 264 at 77:19-78:2 (Rule 2004 Examination of Mose Rucker, December 3, 2009).

With respect to "mechanical" weightings or averaging weightings applied to value indications, Dr. Pratt and his colleagues observe:

Occasionally, an arithmetic average to arrive at a final value estimate is appropriate. Using the arithmetic average implies that *all of the valuation methods have equal validity and equal weight*. While this may occur in certain instances, this is usually not the case. When it is the case, it should be based on a conscience decision on the part of the analyst – and not on a naïve averaging of all value indications."

Shannon P. Pratt, Robert F. Reilly, and Robert P. Schweihs, *VALUING A BUSINESS: THE ANALYSIS AND APPRAISAL OF CLOSELY HELD COMPANIES* at 444 (4th ed. 2000) (emphasis added).

observed total enterprise value before computing the multiple of earnings for the comparable company.²³²⁹

- VRC used an exit multiple for purposes of calculating a terminal value in its DCF analysis that reflected an excessive implied terminal growth rate.²³³⁰

²³²⁹ VRC apparently attempted to address this issue by reducing the observed total enterprise value of the cohorts by the book value of the cohorts' equity investments which would only partially mitigate the potential overvaluation problem. As a consequence of using the potentially inflated total enterprise values when calculating the cohorts' multiples, the multiples were inflated. When the inflated cohort multiples were applied to Tribune's performance metrics, the result was a valuation of Tribune which (impliedly and inappropriately) likely included significant value ostensibly related to Tribune's equity investments. This resulted in a significant potential double counting of value when VRC added the separately determined value of Tribune's equity investments to the value determined for its operating cash flows.

The potential impact of the overstatement of calculated total enterprise value (TEV) on the multiple derived therefrom can be illustrated by calculating a multiple of earnings for Tribune in the same way VRC would have done had Tribune been one of the companies it included as a cohort for purposes of its market method valuation analysis. Observed Tribune equity value of approximately \$7.35 billion at December 31, 2006 (*See Ex. 14* (Tribune 2006 Form 10-K)) is added to Tribune's net debt of \$4.83 billion to estimate total enterprise value of \$12.18 billion at December 31, 2006. The EBITDA earnings multiple (for example) calculated based on Tribune's year end 2006 total enterprise value and its latest twelve months EBITDA (\$1.28 billion) is 9.52 (12.18/1.28). If Tribune held no equity investments, this multiple would capture Tribune's EBITDA multiple based on operating performance. However, Tribune, like other cohorts, owns equity investments and other non-operating assets with substantial value. In order to develop a multiple for estimating cohort enterprise value related to *operating* cash flow, exclusive of the value of Tribune's equity and other non-operating investments (which is consistent with the goal of the VRC analysis), the fair market value of Tribune's equity investments needs to be eliminated from Tribune's total enterprise value. For purposes of its analysis, VRC estimated the fair market value of these investments based on the book carrying value of the investments. Adjusting Tribune's TEV to eliminate the book value of Tribune's equity investments reduces TEV by approximately \$500 million. The resulting multiple of 9.13 (11.68/1.28) is lower than the multiple based on the unadjusted TEV. This is essentially the multiple calculated by VRC and used to inform its market method valuations. However, when the fair market value of Tribune's equity and other non-operating assets and investments (\$3.4 billion, as quantified by VRC) is eliminated from TEV (for this example, the mid-point of VRC's range of estimated values for "equity investments and other assets" in its December 20, 2007 presentation is used), the resulting multiple of 6.86 ((12.18-3.4)/1.28) is considerably lower than the one developed by removing the book carrying value of these non-operating assets.

²³³⁰ For example, as evidenced in its February 2007 projections, Tribune was, at that time, forecasting modest long-term growth. In contrast, VRC adopted terminal period growth rates of up to more than 2% as part of the range of values it determined in its Step Two evaluation.

IMPLIED GROWTH RATES per VRC at STEP TWO			
WACC	Multiples		
	7.25	7.75	8.25
7.50%	0.38%	0.81%	1.19%
8.00%	0.84%	1.28%	1.66%
8.50%	1.31%	1.75%	2.13%

- VRC failed to incorporate into its multiples-based valuations "lower-end" multiples observed from the cohort data on which it relied.²³³¹

- Furthermore, in selecting a range of multiples to apply to Tribune LTM, CFY, and NFY EBITDA, VRC selected ranges of multiples that are inappropriately excessive compared to the cohort company multiples it analyzed. For example, in connection with the application of LTM multiples, VRC selected and applied a range of 8.25x to 8.75x. When this

²³³¹ The multiples informing VRC's value conclusions do not comport with either the average or median statistics presented in its own supporting analytical schedules. For example, VRC applied a range of pro forma LTM EBITDA multiples of 8.25x to 8.75x to Tribune EBITDA despite the fact that the mean figure, per VRC, was 8.0x and the median figure was 7.7x. The table below shows the actual "Weighted Consolidated Multiples" computed by VRC in comparison to the mean and median values actually quantified by VRC. As noted in the tables below, VRC's failure to use the actual mean or median statistics flowing from its own analysis resulted in a potential over quantification of operating asset value ranging from approximately \$356 million to \$537 million:

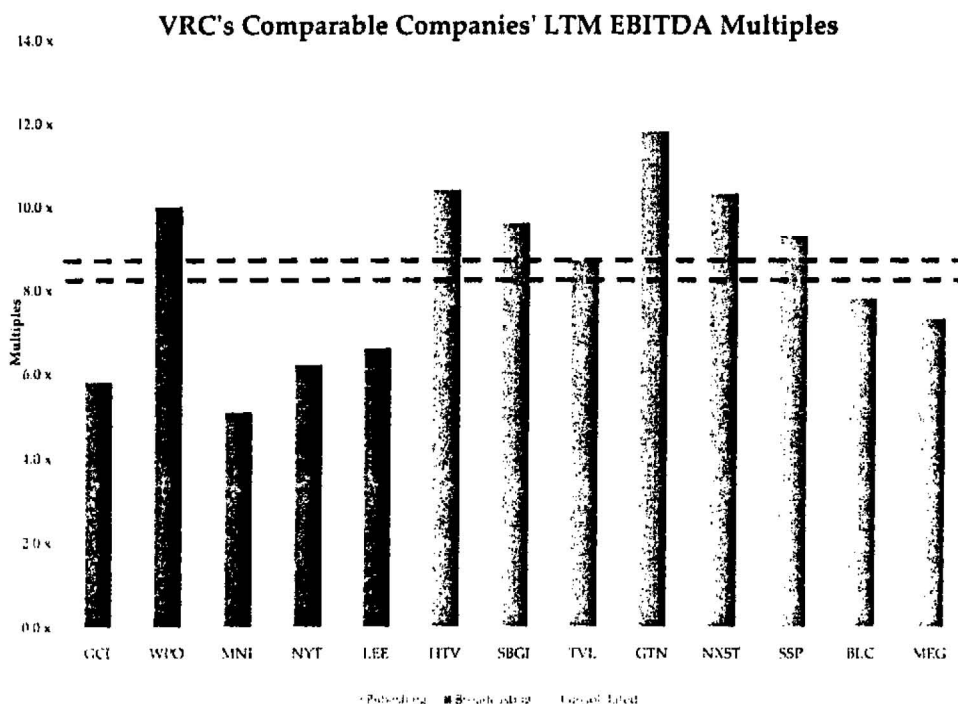
COMPARABLE COMPANIES IMPACT OF VRC'S FAILURE TO USE ITS ACTUAL WEIGHTED MEAN OR MEDIAN					
COMPARABLE COMPANIES METHOD (per VRC)					
Period	Financial Metric Adjusted EBITDA	Multiples		Enterprise Value	
		Low	High	Low	High
PF LTM	\$ 1,198.0	8.25	8.75	\$ 9,883.5	\$ 10,482.5
2007P	\$ 1,191.4	8.00	8.50	\$ 9,531.6	\$ 10,127.3
2008P	\$ 1,193.3	7.75	8.25	\$ 9,248.1	\$ 9,844.8
Operating Enterprise Value Range				\$ 9,248.1	\$ 10,482.5
COMPARABLE COMPANIES METHOD (adjusted by LECG)					
Period	Financial Metric Adjusted EBITDA	Multiples		Enterprise Value	
		Low (1)	High (2)	Low	High
PF LTM	\$ 1,198.0	7.70	8.00	\$ 9,224.6	\$ 9,584.0
2007P	\$ 1,191.4	8.10	8.50	\$ 9,650.3	\$ 10,126.9
2008P	\$ 1,193.3	7.30	7.70	\$ 8,711.1	\$ 9,188.4
Operating Enterprise Value Range				\$ 8,711.1	\$ 10,126.9
Difference				\$ 537.0	\$ 355.6
Notes:					
(1) Low figure represents the lower of the mean or median values as computed by VRC. Ex. 742 at VRC0063399 (VRC Draft Solvency Analysis, dated November 30, 2007).					
(2) High figure represents the higher of the mean or median values as computed by VRC. Ex. 742 at VRC0063399 (VRC Draft Solvency Analysis, dated November 30, 2007).					

VRC also inappropriately utilized a 2007 pro forma EBITDA which included the EBITDA contribution of the Chicago Cubs. See Ex. 721 at VRC 0012546 (Tribune Company Model, dated November 21, 2007), thus double counting the value of the Chicago Cubs in its analysis.

range is contrasted with the cohort multiples from which VRC's range was determined, the multiples are demonstrably excessive.²³³²

- VRC failed to apply any minority or marketability discounts in connection with its determination of the value of Tribune's equity investments, despite the fact that, with limited exceptions, Tribune held less than a 50% ownership interest in those investments, and despite the fact that most of Tribune's investments were in non-public, closely-held businesses.
- VRC used discount rates in conducting DCF analyses to determine the value of certain equity investments that failed to incorporate any size premium into the cost of

²³³² As reflected in the table below, VRC identified cohort multiples for each of the Publishing Segment and the Broadcasting Segment, as well as multiples ostensibly applicable to Tribune on a consolidated basis. For 2007, the Publishing Segment contributed almost 70% of total EBITDA. Furthermore, in selecting publishing comparables, VRC included The Washington Post metrics despite the fact that The Washington Post is demonstrably not comparable to Tribune, as discussed below. By selecting a range of multiples that exceeded publishing cohort and consolidated company cohort multiples, VRC, in the Examiner's opinion, upwardly biased its selected range of LTM EBITDA multiples.



capital determinations, despite a justifiable need to have done so given the smaller size of the firms in which Tribune was invested.

- VRC relied on market based valuation approaches that used companies materially different from Tribune or its investments.²³³³

- When conducting its cash flow stress test, VRC improperly "stressed" cash flows which contained the revenue and earnings performance of certain assets that Tribune had designated held for sale.²³³⁴ This mistake resulted in a projection of "stressed" Broadcasting Segment cash flows that actually are greater in amount than the cash flows without including the assets held for sale.²³³⁵

²³³³ Several of the cohort firms identified and used by VRC for purposes of its trading multiples analysis appear insufficiently comparable to Tribune Co. to allow for meaningful valuation conclusions to be drawn. For example, E.W. Scripps, a cohort relied on by VRC, generated over 42% of its 2006 revenues and nearly 75% of its 2006 income from continuing operations (before income taxes and minority interests) from its network investments, including HGTV, TV Food Network, DIY, Fine Living and GAC. Ex. 918 (The E. W. Scripps Company 2006 Form 10-K). In contrast, the vast majority (74%) of Tribune's 2006 revenues were associated with the Publishing Segment. Ex. 14 (Tribune 2006 Form 10-K). Removing E. W. Scripps from the VRC multiples analysis causes the resultant multiples to decline substantially. Specifically, based on this single change, VRC's consolidated comparables mean LTM revenue multiple falls from 2.1 to 1.7 (a decline of approximately 19%) while the mean LTM EBITDA multiple falls from 8.1 to 7.6 (a decline of approximately 6%). Similarly, The Washington Post, another VRC identified comparable firm, generated substantial revenue from its education business, Kaplan, Inc. This segment of The Washington Post's business generated approximately 43% of the firm's 2006 operating revenues and 28% of the firm's 2006 operating income. Ex. 919 (The Washington Post Company 2006 Form 10-K). Further, this segment of The Washington Post's business grew 19% (as measured by year-over-year revenue growth from fiscal 2005 to fiscal 2006) representing the company's fastest growing segment in 2006. *Id.* In addition to its education segment, The Washington Post provided cable service (through its Cable One subsidiary) to over 690,000 subscribers, further differentiating its business from that of the Tribune Entities. *Id.*

When Mr. Rucker was asked why The Washington Post was added to the group of comparable companies, he stated that he could not recall specifically why it was added. Examiner's Sworn Interview of Mose Rucker and Bryan Browning, June 30, 2010, at 188:9-189:4. Nor was Mr. Rucker able to recall how it was that he concluded that The Washington Post was in fact a comparable company. Examiner's Sworn Interview of Mose Rucker and Bryan Browning, June 30, 2010, at 189:15-18. If The Washington Post is removed from the multiples calculation performed by VRC, the mean LTM EBITDA publishing multiple falls from 6.7 (inclusive of The Washington Post) to 5.9 (exclusive of The Washington Post), representing a decline of approximately 12%. *Notably, VRC did not identify The Washington Post as a cohort company in connection with its Step One solvency analysis. See, e.g., Ex. 271 at VRC0051422 (Mednik E-Mail, dated May 4, 2007). Indeed, Cristina Mohr stated to the Examiner that it was Citigroup's judgment that The Washington Post was not an appropriate comparable for purposes of valuing Tribune. Examiner's Interview of Cristina Mohr, June 29, 2010.*

²³³⁴ Those assets included the Chicago Cubs, SCNI, and Hoy, New York.

²³³⁵ The following tables show the impact of the mistake:

(4) **Public Market Data Readily Available to VRC did not Support VRC's Solvency Conclusions at Step Two.**

Finally, in evaluating the reasonableness of VRC's December 20, 2007 solvency opinion, the Examiner considered certain market information that should have been readily available to VRC and, in the Examiner's view, bears on reasonableness. For example, during the period between the Step One Financing Closing Date and the Step Two Financing Closing Date, (a) the secondary market for the Step One Debt began reflecting modest discounts, (b) Tribune's publicly traded bonds began trading at steep discounts to par (particularly during the period immediately preceding the Step Two Closing),²³³⁶ (c) the pricing on credit default securities increased significantly, and (d) Tribune Common Stock traded at values as low as \$25.41 per

VRC 12/20/2007 MODEL											
	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Publishing Segment Revenue	\$ 3,713	\$ 3,680	\$ 3,752	\$ 3,840	\$ 3,928	\$ 4,019	\$ 4,113	\$ 4,209	\$ 4,307	\$ 4,408	\$ 4,511
Broadcasting Segment Revenue (incl Radio)	\$ 1,383	\$ 1,257	\$ 1,264	\$ 1,307	\$ 1,317	\$ 1,352	\$ 1,387	\$ 1,424	\$ 1,461	\$ 1,500	\$ 1,539
Total Revenue	\$ 5,096	\$ 4,936	\$ 5,016	\$ 5,147	\$ 5,245	\$ 5,371	\$ 5,500	\$ 5,633	\$ 5,769	\$ 5,907	\$ 6,050
Publishing Segment EBITDA	\$ 818	\$ 786	\$ 814	\$ 844	\$ 875	\$ 906	\$ 927	\$ 949	\$ 971	\$ 994	\$ 1,017
Broadcasting Segment EBITDA (incl Radio)	\$ 415	\$ 448	\$ 464	\$ 479	\$ 465	\$ 484	\$ 497	\$ 510	\$ 523	\$ 537	\$ 551
Corporate Expenses	(\$ 42)	(\$ 41)	(\$ 41)	(\$ 41)	(\$ 41)	(\$ 41)	(\$ 41)	(\$ 41)	(\$ 41)	(\$ 41)	(\$ 41)
Total EBITDA	\$ 1,191	\$ 1,193	\$ 1,237	\$ 1,282	\$ 1,299	\$ 1,349	\$ 1,383	\$ 1,417	\$ 1,453	\$ 1,489	\$ 1,527

VRC 12/20/2007 SENSITIVITY CASE											
	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Publishing Segment Revenue	\$ 3,713	\$ 3,532	\$ 3,404	\$ 3,309	\$ 3,220	\$ 3,139	\$ 3,061	\$ 2,984	\$ 2,910	\$ 2,837	\$ 2,766
Growth		-4.9%	-3.6%	-2.8%	-2.7%	-2.5%	-2.5%	-2.5%	-2.5%	-2.5%	-2.5%
Broadcasting Segment Revenue (incl Radio)	\$ 1,383	\$ 1,409	\$ 1,387	\$ 1,424	\$ 1,413	\$ 1,442	\$ 1,473	\$ 1,504	\$ 1,535	\$ 1,567	\$ 1,600
Growth		1.9%	-1.6%	2.7%	-0.8%	2.1%	2.1%	2.1%	2.1%	2.1%	2.1%
Total	\$ 5,096	\$ 4,941	\$ 4,791	\$ 4,733	\$ 4,632	\$ 4,582	\$ 4,533	\$ 4,488	\$ 4,445	\$ 4,404	\$ 4,366
Publishing Segment EBITDA	\$ 731	\$ 674	\$ 645	\$ 625	\$ 609	\$ 594	\$ 579	\$ 564	\$ 550	\$ 537	\$ 527
Margin	20.7%	19.4%	19.5%	19.4%	19.4%	19.4%	19.4%	19.4%	19.4%	19.4%	19.4%
Broadcasting Segment EBITDA	\$ 415	\$ 462	\$ 484	\$ 492	\$ 482	\$ 497	\$ 510	\$ 523	\$ 537	\$ 551	\$ 567
Margin	37.5%	33.3%	36.0%	36.1%	37.8%	37.4%	37.4%	37.4%	37.4%	37.4%	37.4%
Corporate Expenses	41.3	41.3	41.3	41.3	41.3	41.3	41.3	41.3	41.3	41.3	41.3
Total	\$ 1,191	\$ 1,099	\$ 1,098	\$ 1,025	\$ 1,021	\$ 1,015	\$ 1,010	\$ 1,005	\$ 1,001	\$ 998	\$ 998

²³³⁶ Those bonds further declined in value after the closing of the Step Two Transactions, as additional information regarding Tribune's fourth quarter 2007 performance was disclosed in early 2008. See Ex. 77 (Tribune Bond Pricing). Although not publicly disclosed before the closing of Step Two, much of the financial performance data for the fourth quarter of 2007 was known to management prior to the closing of Step Two (e.g., Brown Book data for periods 10 and 11 of 2007).

share. These factors (none of which VRC appears to have considered explicitly) further undermine VRC's Step Two valuation conclusions.²³³⁷

As evidenced by a chart prepared by Morgan Stanley in connection with a November 21, 2007 presentation,²³³⁸ Tribune's Tranche B Facility debt, despite having traded near par value in May 2007, declined to approximately 91% of par value as of mid-November 2007, reflecting a significant discount not only to the trading value of Tribune's Tranche X Facility debt (which as of November 2007 was trading at 97.5% of par value), but also a discount to the benchmark index selected by Morgan Stanley for comparative purposes. Between the Step One Financing Closing Date and Step Two Financing Closing Date, Tribune's longer term debt traded at an almost 10% discount in the secondary market.

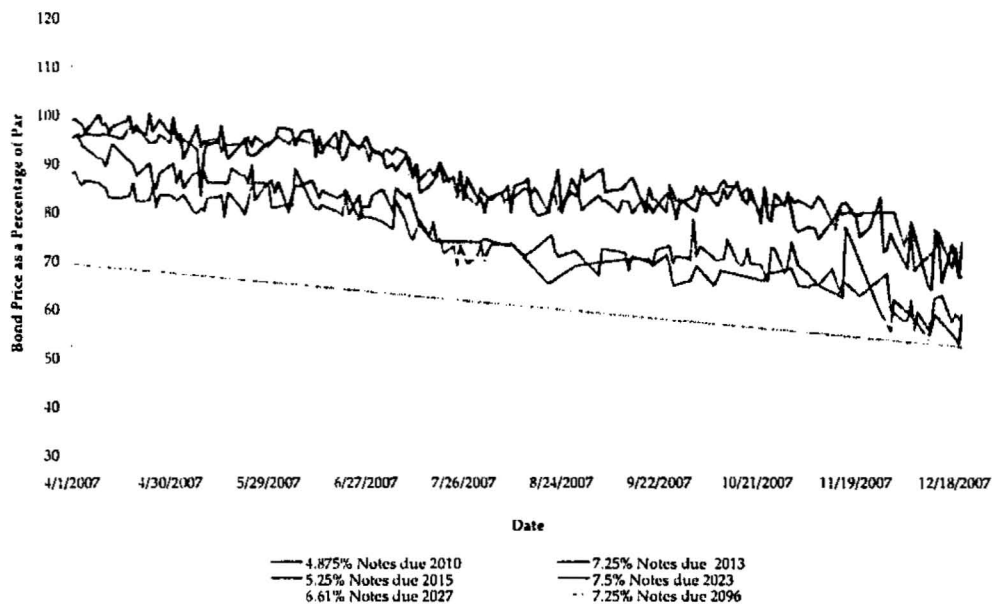
Similarly, as the chart below indicates, the price of Tribune's publicly traded debt eroded steadily between the Tribune Board's approval of the Leveraged ESOP Transactions on April 1, 2007 and the Step Two Financing Closing Date. At the time of the closing of Step Two, Tribune's bonds were trading between approximately 50% and 75% of par value:

²³³⁷ As explained elsewhere in the Report, significant market indicia did not support a conclusion that Tribune was solvent at Step Two. *See* Report at § IV.B.5.d.(10).

²³³⁸ Ex. 920 (Morgan Stanley Project Tower Discussion Materials, dated November 21, 2007). These materials appear to correspond to materials presented to the Tribune Board at the November 21, 2007 Tribune Board meeting, based on a description of Morgan Stanley's presentation as contained in the meeting minutes. *See* Ex. 702 (Tribune Board Meeting Minutes, dated November 21, 2007).

Tribune Bond Prices

4/1/2007 - 12/20/2007



Moreover, and related to the market indicators above, the pricing of Tribune credit default securities increased significantly during this period:²³³⁹

²³³⁹ Ex. 921 (Tribune Company CDS Prices Chart). The Examiner notes that VRC was, or should have been, aware of this fact in conducting its analysis. See, e.g., Ex. 922 (Edge E-Mail, dated July 22, 2007), referring to a Bloomberg article which observed:

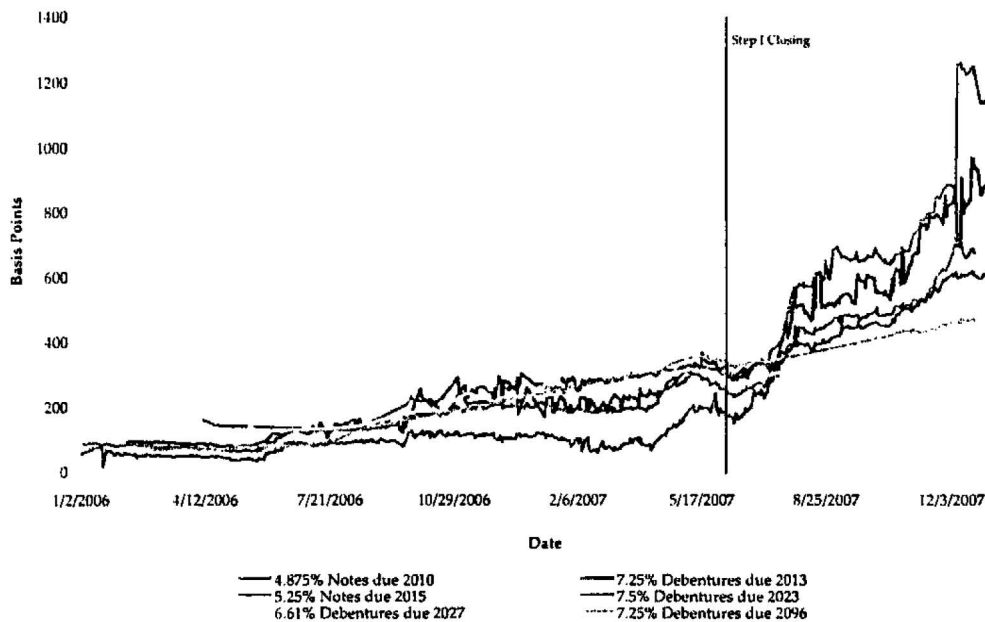
Tribune Co. has a 50-50 chance of missing interest payments on some of the \$13 billion in debt it will have after real estate investor Sam Zell buys the company, trading in the company's credit-default swaps shows.

Prices of the swaps, financial contracts used to speculate on a company's ability to repay debt, have jumped \$331,000 since the first step in the sale was completed in May. It costs \$770,000 to protect \$10 million of Tribune bonds for five years, according to CMA Datavision, indicating a more than 50 percent risk of default. . . .

Tribune swaps prices imply investors consider the company the fourth-riskiest debt issuer among the almost 1,200 worldwide whose credit-default swaps were quoted this week by London-based CMA. Tribune is perceived as more likely to default on its bonds than Ford Motor Co., the Dearborn, Michigan-based automaker that reported a record \$12.6 billion lost last year. Ford credit-default swaps trade at \$682,000, CMA prices show. . . .

The company's sales are running behind even the most pessimistic scenario evaluated by its banker, New York-based Morgan Stanley. Tribune would be worth as little as \$14.21 a share if newspaper sales were to fall 3 percent a year and broadcasting cash flow declined 1 percent annually through 2011, Tribune said in the filing, citing a Morgan Stanley analysis.

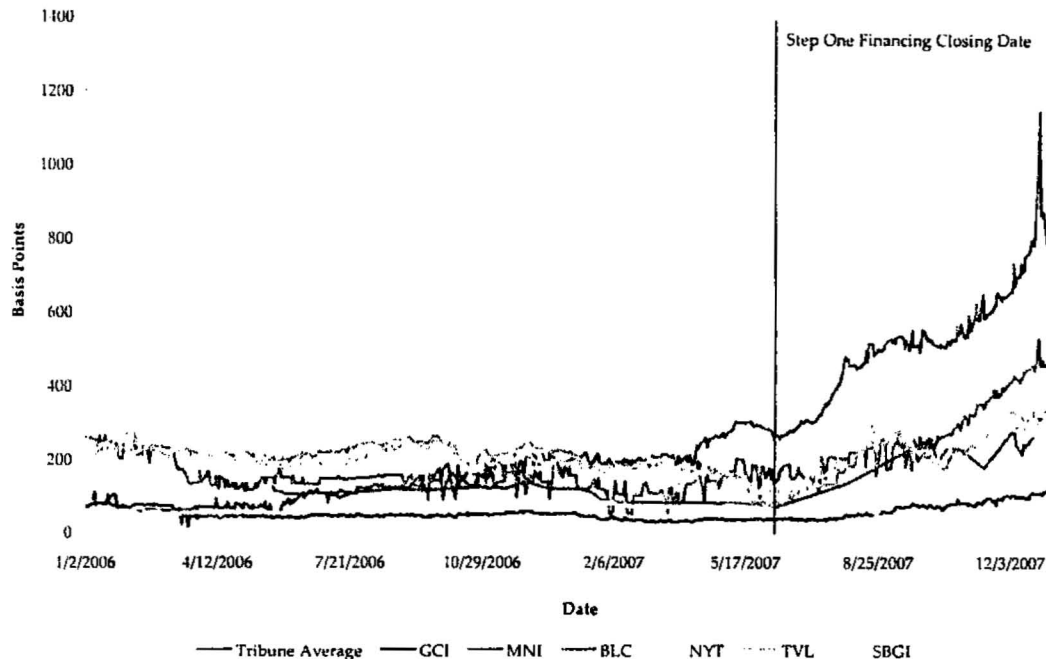
Tribune Credit Default Security Prices 1/2/2006 - 12/31/2007



And, when contrasted with other identified cohort company credit default pricing, Tribune securities evidenced more significant pricing differentiation:²³⁴⁰

²³⁴⁰ The consolidated Tribune credit default prices were calculated as the average of all credit default security prices on a given day across all of Tribune's bonds. The credit default prices for Gannett, McClatchy, and LIN TV were also derived using this methodology. Belo Corp., The New York Times, and Sinclair Broadcast Group only had data for one security, and as a result, only that security is illustrated in the graph.

Tribune Comparable Company Credit Default Security Prices 1/2/2006 - 12/31/2007



Finally, between the closing of the Step One Transactions and the closing of the Step Two Transactions, Tribune Common Stock traded at times below \$26 per share. Thus, the trading price of Tribune Common Stock could be construed to evidence insolvency, given that the Tribune Common Stock would be replaced with debt in an amount equivalent to \$34 per share (and considering that the trading price of the Tribune Common Stock was likely upwardly biased due to the prospect of receiving \$34 per share on the Step Two Financing Closing Date). This fact in isolation, however, does not conclusively demonstrate that Tribune would be insolvent on the consummation of the Merger.²³⁴¹ First, a price of \$34 per share could reflect Tribune's value in the hands of a purchaser that could realize synergies that others could not. In such case, the differential between the \$34 Tender Offer price and the observed trading price of a

²³⁴¹ See Report at § IV.B.5.d.(10).

share of Tribune Common Stock might represent a "control premium" associated with such synergies.²³⁴² Second, a price of \$34 per share could reflect a unique attribute of the buyer that adds value to the enterprise (and thereby permits the buyer to pay more than fair market value for the Tribune Entities' assets), such as the tax attributes of the proposed S-Corporation/ESOP structure that would only be available following consummation of the Merger. This "added value" (the \$8 per share premium Tender Offer price over the trading price) equates to approximately \$935 million.²³⁴³ As discussed in the Report, however, the Examiner concludes that the value associated with these particular tax attributes cannot be included in a solvency determination under a fair market value standard because such attributes are unique to the particular buyer and transaction ownership structure in this case.²³⁴⁴ As a result, "synergistic" and "tax attribute" considerations would not refute the inference that the significant difference between the \$26 per share trading price of Tribune Common Stock and the \$34 per share Tender Offer price reflected insolvency at Step Two.

In sum, market-based information that was (or should have been) readily available to VRC contradicts VRC's Step Two opinion that Tribune was solvent as of December 20, 2007 when viewed from the perspective of the fair market value of the Tribune Entities' assets at that time.

²³⁴² Strategic purchasers often pay more for a company than financial buyers due to these synergies. In this case, however, Tribune's auction process yielded bids from two competing buyers, neither of which could be considered a strategic buyer. It would therefore be unlikely that the differential between the trading price of Tribune Common Stock and the Tender Offer price could be explained by the value associated with potential synergies.

²³⁴³ The calculation assumes approximately 117 million shares of Tribune Common Stock were outstanding at such time. Of note, this \$935 million value is roughly equivalent to the \$876 million S-Corporation/ESOP tax savings calculated by VRC in its December 18, 2007 solvency analysis (not taking into account other potential savings associated with the proposed S-Corporation/ESOP structure such as 401(k) savings). Ex. 705 at TRB0414949 (Tribune Board Meeting Materials, dated December 18, 2007).

²³⁴⁴ Such attributes do afford their owners value, unique to the particular owner, that is often referred to as "investment value."

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

TRIBUNE COMPANY, et al.,¹

Debtors.

Chapter 11

Case No. 08-13141 (KJC)

Jointly Administered

Related to Docket No. 3062, 4/12

AGREED ORDER DIRECTING THE APPOINTMENT OF AN EXAMINER

Upon the Motion² of Wilmington Trust Company ("WTC") in the above-captioned chapter 11 cases for appointment of an examiner pursuant to § 1104(c) of the Bankruptcy Code; the Court having reviewed the objections, responses and/or statements related to the Motion filed

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Tribune Company (0355); 435 Production Company (8865); 5800 Sunset Productions Inc. (5510); Baltimore Newspaper Networks, Inc. (8258); California Community News Corporation (5306); Candle Holdings Corporation (5626); Channel 20, Inc. (7399); Channel 39, Inc. (5256); Channel 40, Inc. (3844); Chicago Avenue Construction Company (8634); Chicago River Production Company (5434); Chicago Tribune Company (3437); Chicago Tribune Newspapers, Inc. (0439); Chicago Tribune Press Service, Inc. (3167); ChicagoLand Microwave Licensee, Inc. (1579); Chicagoland Publishing Company (3237); Chicagoland Television News, Inc. (1352); Courant Specialty Products, Inc. (9221); Direct Mail Associates, Inc. (6121); Distribution Systems of America, Inc. (3811); Eagle New Media Investments, LLC (6661); Eagle Publishing Investments, LLC (6327); forsalebyowner.com corp. (0219); ForSaleByOwner.com Referral Services, LLC (9205); Fortify Holdings Corporation (5628); Forum Publishing Group, Inc. (2940); Gold Coast Publications, Inc. (5505); GreenCo, Inc. (7416); Heart & Crown Advertising, Inc. (9808); Homeowners Realty, Inc. (1507); Homestead Publishing Co. (4903); Hoy, LLC (8033); Hoy Publications, LLC (2352); InsertCo, Inc. (2663); Internet Foreclosure Service, Inc. (6550); JuliusAir Company, LLC (9479); JuliusAir Company II, LLC; KIAH Inc. (4014); KPLR, Inc. (7943); KSWB Inc. (7035); KTLA Inc. (3404); KWGN Inc. (5347); Los Angeles Times Communications LLC (1324); Los Angeles Times International, Ltd. (6079); Los Angeles Times Newspapers, Inc. (0416); Magic T Music Publishing Company (6522); NBBF, LLC (0893); Neocomm, Inc. (7208); New Mass. Media, Inc. (9553); Newscom Services, Inc. (4817); Newspaper Readers Agency, Inc. (7335); North Michigan Production Company (5466); North Orange Avenue Properties, Inc. (4056); Oak Brook Productions, Inc. (2598); Orlando Sentinel Communications Company (3775); Patuxent Publishing Company (4223); Publishers Forest Products Co. of Washington (4750); Sentinel Communications News Ventures, Inc. (2027); Shepard's Inc. (7931); Signs of Distinction, Inc. (3603); Southern Connecticut Newspapers, Inc. (1455); Star Community Publishing Group, LLC (5612); Stemweb, Inc. (4276); Sun-Sentinel Company (2684); The Baltimore Sun Company (6880); The Daily Press, Inc. (9368); The Hartford Courant Company (3490); The Morning Call, Inc. (7560); The Other Company LLC (5337); Times Mirror Land and Timber Company (7088); Times Mirror Payroll Processing Company, Inc. (4227); Times Mirror Services Company, Inc. (1326); TMLH 2, Inc. (0720); TMLH 1, Inc. (0719); TMS Entertainment Guides, Inc. (6325); Tower Distribution Company (9066); Towering T Music Publishing Company (2470); Tribune Broadcast Holdings, Inc. (4438); Tribune Broadcasting Company (2569); Tribune Broadcasting Holdco, LLC (2534); Tribune Broadcasting News Network, Inc., n/k/a Tribune Washington Bureau Inc. (1088); Tribune California Properties, Inc. (1629); Tribune CNLBC, LLC, i/k/a/ Chicago National League Ball Club, LLC (0347); Tribune Direct Marketing, Inc. (1479); Tribune Entertainment Company (6232); Tribune Entertainment Production Company (5393); Tribune Finance, LLC (2537); Tribune Finance Service Center, Inc. (7844); Tribune License, Inc. (1035); Tribune Los Angeles, Inc. (4522); Tribune Manhattan Newspaper Holdings, Inc. (7279); Tribune Media Net, Inc. (7847); Tribune Media Services, Inc. (1080); Tribune Network Holdings Company (9936); Tribune New York Newspaper Holdings, LLC (7278); Tribune NM, Inc. (9939); Tribune Publishing Company (9720); Tribune Television Company (1634); Tribune Television Holdings, Inc. (1630); Tribune Television New Orleans, Inc. (4055); Tribune Television Northwest, Inc. (2975); ValuMail, Inc. (9512); Virginia Community Shoppers, LLC (4025); Virginia Gazette Companies, LLC (9587); WATL, LLC (7384); WCWN LLC (5982); WDCW Broadcasting, Inc. (8300); WGN Continental Broadcasting Company (9530); WLVI Inc. (8074); WPIX, Inc. (0191); and WXXX Inc. (1268). The Debtors' corporate headquarters and the mailing address for each Debtor is 435 North Michigan Avenue, Chicago, Illinois 60611.

² Capitalized terms used but not defined herein shall have the meaning ascribed to such terms in the Motion.

or made by the above-captioned debtors and debtors in possession (the "Debtors"), the Official Committee of Unsecured Creditors appointed in the Debtors' cases (the "Committee"), JPMorgan Chase Bank, N.A. ("JPMC"), Merrill Lynch Capital Corporation ("MLCC"), the Credit Agreement Lenders (the "Credit Agreement Lenders"), certain retirees (the "TM Retirees"), Citicorp North America, Inc./Citigroup Global Markets Inc. (together, "Citigroup"), Bank of America, N.A. and Banc of America Securities LLC (together, "BofA"), Law Debenture Trust Company of New York, as Indenture Trustee ("Law Debenture"), Centerbridge Credit Advisors LLC ("Centerbridge") (collectively the "Parties"), and the Office of the United States Trustee (the "U.S. Trustee"), and considered the arguments and representations of counsel made thereon; and due and proper notice having been given under the circumstances; and it appearing that this is a core proceeding under 28 U.S.C. § 157(b)(2); and the Parties having consented to appointment of an examiner, it is hereby ORDERED as follows:

1. The U.S. Trustee is directed to appoint an examiner (the "Examiner") pursuant to 11 U.S.C. § 1104(c)(1).
2. The Examiner shall (i) evaluate whether there are potential claims and causes of action held by the Debtors' estates in connection with the leveraged buy-out of Tribune that occurred in 2007 (the "LBO") which may be asserted against any entity which may bear liability, including, without limitation, the Debtors, the Debtors' former and/or present management, including former/present members of Tribune's Board, the Debtors' lenders and the Debtors' advisors, said potential claims and causes of action including, but not being limited to, claims for fraudulent conveyance (including both avoidance of liability and disgorgement of payments), breach of fiduciary duty, aiding and abetting the same, and equitable subordination and whether

there are any potential defenses which may be asserted to such potential claims and causes of action, (ii) evaluate whether Wilmington Trust Company violated the automatic stay under 11 U.S.C. § 362 by its filing, on March 3, 2010, of its Complaint for Equitable Subordination and Disallowance of Claims, Damages, and Constructive Trust (docketed at Adv. No. 10-50732, D.I. 1), (iii) evaluate the assertions and defenses made by certain of the Parties in connection with the Motion of JPMorgan Chase Bank, N.A., for Sanctions Against Wilmington Trust Company for Improper Disclosure of Confidential Information in Violation of Court Order (D.I. 3714), and (iv) otherwise perform the duties of an examiner set forth in 11 U.S.C. §§ 1106(a)(3) and (4) (as limited by this Order) (collectively, the "Investigation").

3. The Examiner shall, before commencing the Investigation, meet and confer with the Parties, and the U.S. Trustee, if the U.S. Trustee requests participation. The Parties shall use their respective best efforts to coordinate with the Examiner and to avoid unnecessary interference with, or duplication of, the Investigation, and the Examiner, in his or her conduct of the Investigation, shall use best efforts to utilize relevant materials obtained by the Parties via informal and/or formal discovery to avoid unnecessary duplication of work performed to date. Nothing in this Order shall be deemed to require any Party to waive any applicable privilege.

4. Within seven (7) days after the later of entry of this Order or the date on which the U.S. Trustee files a notice of the Examiner's appointment, the Examiner shall propose a work and expenses plan (the "Work and Expenses Plan"), which shall include a good faith estimate of the fees and expenses of the Examiner and the Examiner's proposed professionals for conducting the Investigation (the "Budget"). The Court will hold a status conference on May 10, 2010 at 11:00 a.m. to (i) consider the Work and Expenses Plan (along with any responses thereto).

including an opportunity for any of the Parties to be heard on the appropriateness of the Budget) and (ii) order, if appropriate, further relief as will aid the Examiner in the performance of the Examiner's duties and/or to accommodate the needs of the estates. Notwithstanding the foregoing, the Examiner is authorized to commence the Investigation after the "meet and confer" referenced in the prior paragraph of this Order.

5. The Examiner shall prepare and file a report (the "Report"), as required by 11 U.S.C. § 1106(a)(4), on or before July 12, 2010, unless such time shall be extended by order of the Court upon application by the Examiner on notice to the Parties.

6. Until the Examiner has filed the Report, neither the Examiner nor the Examiner's representatives or agents shall make any public disclosures concerning the performance of the Examiner's duties, except in hearings before the Court; provided, however, that neither any information asserted to be confidential pursuant to applicable agreement or treated as confidential pursuant to court order, nor any evaluation of the strengths or weaknesses of any potential claim or right of action the estates may have or suggested litigation strategy in connection therewith, shall be disclosed publicly without further order of this Court.

7. The Examiner may retain counsel and other professionals if the Examiner determines that such retention is necessary to discharge the Examiner's duties, with such retention to be subject to Court approval after notice under standards equivalent to those set forth in 11 U.S.C. § 327.

8. The Examiner and any professionals retained by the Examiner pursuant to order of this Court shall be compensated and reimbursed for their expenses pursuant to any procedures for interim compensation and reimbursement of expenses of professionals which are established

in these cases. Compensation and reimbursement of the Examiner shall be determined pursuant to 11 U.S.C. § 330, and compensation of the Examiner's professionals shall be determined pursuant to standards equivalent to those set forth in 11 U.S.C. § 330.

9. The Examiner shall have the standing of a party in interest with respect to matters that are within the scope of the Investigation, and shall be entitled to appear and be heard at any and all hearings in these cases.

10. The Debtors and all of the Debtors' affiliates, subsidiaries and other companies and the Examiner shall mutually coordinate and cooperate in connection with the performance of the Examiner's duties. In addition to full access to the documents in the depository as set forth below, the Debtors shall provide to the Examiner all other non-privileged documents and information relevant to the Investigation that the Examiner requests. Nothing herein shall prohibit the Debtors from objecting to requests, including, without limitation, on the ground that the documents or information requested are beyond the scope of the Investigation. If the Examiner seeks the disclosure of documents or information as to which the Debtors assert a claim of privilege or have objected and the Examiner and the Debtors are unable to reach a resolution on whether or on what terms such documents or information should be disclosed to the Examiner, the matter may be brought before the Court for resolution. The Debtors' and the Committee's privileges, including, but not limited to, the attorney-client privilege and attorney work-product privilege, remain and are not deemed waived or in any way impaired by this Order.

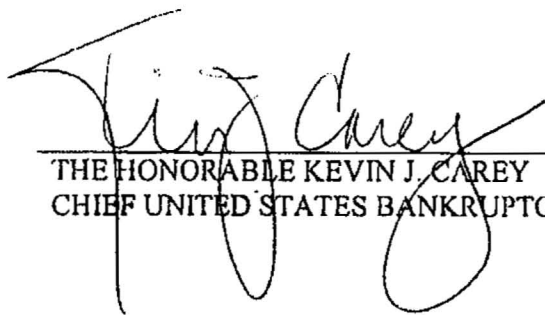
11. Subject to any applicable confidentiality agreement and orders entered by this Court, the Parties will as promptly as practicable take all necessary and appropriate steps to give

the Examiner and professionals retained by the Examiner access to the document depository referenced in the Order (i) Authorizing the Debtors to Establish a Document Depository and Directing the Committee to Deliver Certain Documents to the Depository and (ii) Establishing Settlement Negotiation Protections (D.I. 2858) (the "Depository Order"). The Examiner and professionals retained by the Examiner shall have full and complete access to all documents in the depository, notwithstanding the rights of Producing Parties (as that term is defined in the Depository Order) to object to the review of documents produced by such Producing Party. Notwithstanding any other provision of this Order, documents in the Depository and other information subject to orders of this Court relating to confidentiality shall not be disclosed by the Examiner, except in accordance with such orders or further order of this Court. The Parties shall reasonably cooperate with the Examiner.

12. Subject to the requirements for mutual cooperation and coordination set forth herein, nothing contained in this Order shall diminish the powers and authority of the Debtors or the Committee under the Bankruptcy Code, including the powers to investigate transactions and entities, to commence adversary proceedings and contested matters, and to object to claims.

13. Nothing in this Order shall impede the rights of the U.S. Trustee, the Parties (including WTC), or any other party in interest to request any other lawful relief, including but not limited to a request to further expand the scope of the Investigation, if during such Investigation other relevant matters are revealed which the Examiner or other party believes should be brought to the attention of the Court, or to have the Report (or parts thereof) filed under seal.

Dated: Wilmington, Delaware
April 20, 2010


THE HONORABLE KEVIN J. CAREY
CHIEF UNITED STATES BANKRUPTCY JUDGE

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